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## **Federal incentives to rehabilitate and preserve historic architecture**

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The American landscape is rich with historic architecture. The federal government has provided important incentives to encourage property owners to protect these historic resources. The Federal Rehabilitation Tax Credit for Certified Historic Structures (Internal Revenue Code 47) and the Federal Historic Preservation Tax Incentive Program (170(h)) provide financial incentives that encourage voluntary preservation.

For a historic property to qualify for either program it must be located in, and contribute to, one of the historic districts designated in the National Register of Historic Places, or be listed in the National Register as an independent, historically significant structure. Thousands of residential and commercial properties in New England meet this qualification. The discussion below is a brief overview of each program, rather than a description of all program requirements, and is not intended to be tax advice. Readers are encouraged to seek advice from their personal tax advisor to explore the details of each program.

### **Rehabilitation Tax Credit**

The Rehabilitation Tax Credit, the better known of the two programs, provides a tax credit for the interior or exterior rehabilitation of a historic property equal to 20% of the rehabilitation costs incurred by the owner, but only applies to income-producing properties.

The owners of qualified properties have to substantiate expenditures for property rehabilitation. The amount of the expenditure must exceed the adjusted basis of the building or \$5,000, whichever is greater, and generally must be incurred within a 24-month period. This incentive is a one-time tax credit taken in the year the property is placed in service. If the taxpayer sells the property within five years of taking the tax credit, a proportionate share of the credit must be "recaptured" as ordinary income, which makes this program less desirable for developers seeking short-term liquidity. This incentive contributes to the revitalization of historic commercial centers, but provides no lasting protection for historic buildings.

### **Historic Preservation**

#### **Tax Incentive**

The Federal Historic Preservation Tax Incentive Program applies to both residential and commercial properties and provides a potential tax deduction for the donation of a historic preservation easement to a qualified charitable organization, assuming certain requirements are met. The easement must be perpetual and require the donor and all future owners of the property to obtain approval from the easement-holding organization before making any alterations to protected features of the property. It is frequently the case that only the exterior features of the property are protected.

This program represents the donation of a partial interest in real property. Therefore, the donation is

considered a charitable contribution and a qualified appraiser experienced in valuing historic preservation easements must determine its fair market value. The deduction is taken in the year the easement is granted, subject to certain adjusted gross income limitations, and if necessary, can be carried forward up to five years.

Property owned for personal use including condominiums and commercial properties may qualify for the Historic Preservation Tax Incentive. Commercial properties may benefit from both programs, however, tax credit recapture provisions may apply to donations of historic preservation easements subsequent to claiming a rehabilitation tax credit.

In addition to the preservation of American architecture for the benefit of future generations, the restoration of historic buildings is also environmentally friendly. Recycling existing structures eliminates the waste of demolition and disposal, as well as the use of natural resources for reconstruction. Historic property owners should take the time to learn more about these important tax incentives and their many significant benefits.

Mory Bahar is an independent authorized representative of the Trust for Architectural Easements, Washington, D.C.

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