



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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EXECUTIVE DIRECTOR
NANCEE ROBLES

DATE: December 7, 2022

TO: Low-Income Housing Tax Credit Stakeholders

FROM: Nancee Robles, Executive Director

RE: Proposed Regulations for the State Historic Rehabilitation Tax Credits

Attached for public review and comment are the new regulations for the State Historic Rehabilitation Tax Credit proposed by the California Tax Credit Allocation Committee (CTCAC) staff. Attached to this memorandum is proposed addition to the CTCAC regulations. CTCAC anticipates the regulation adoption vote by the Committee to take place at a CTCAC meeting scheduled for January 18, 2023. CTCAC staff will conduct public hearing on December 19, 2022, to explain, answer questions, and solicit comments regarding the proposed regulations. The notice of public hearing will be sent out separately.

Interested persons wishing to express their views on the proposed regulations may submit written comments by email to the addresses below:

CTCAC: Anthony Zeto, Deputy Director at anthony.zeto@treasurer.ca.gov

For written comments emailed, please use the subject line "Historic Tax Credit Proposed Regulations", or deliver written comments in person to CTCAC **no later than Thursday, December 29, 2022**. CTCAC staff is accepting comments on an ongoing basis, though it would be preferable if the public comments are received within the same timeframe noted above. For comments submitted electronically, it is preferable the comments are in a Microsoft Word document or an electronic format that allows for copying. While CTCAC welcomes public comments, staff encourages commenters to be sparing and brief given the short timeframe for staff to turn around responses. If you agree with some changes and disagree with others, please remember to make both sets of comments so both favorable and unfavorable reactions are recorded. In the interest of consistency, we ask that commenters either provide comment at the public hearing or submit written comments, as opposed to both. If you feel it is necessary to provide both, please provide consistent comments in both forums.

Chapter 3 State Historic Rehabilitation Tax Credits

Section 11010. Purpose and Scope

Senate Bill 451 (Chapter 703, Statutes of 2019) added Revenue and Taxation Code (RTC) sections 17053.91 and 23691 to allow a taxpayer that receives a tax credit allocation to claim a credit against those taxes for each taxable year beginning on or after January 1, 2021, and before January 1, 2026, for the rehabilitation of certified historic structures. These State Historic Rehabilitation Tax Credits are allocated on a first-come, first-served basis by the California Tax Credit Allocation Committee (CTCAC) in conjunction with and following project eligibility approval from the Office of Historic Preservation (OHP).

The State Historic Rehabilitation Tax Credit Application is a two-part joint application used to apply for certifications required for the State Historic Rehabilitation Tax Credits. OHP certifies that a building is a “certified historic structure,” as defined in RTC sections 17053.91(b) and 23691(b), and that a rehabilitation meets the Secretary of the Interior’s Standards for Rehabilitation and is consistent with the historic character of the building and, where applicable, with the district in which it is located. Once OHP provides a certification for the aforementioned standards, the applicant may apply for State Historic Rehabilitation Tax Credits with CTCAC. The following sections detail the regulatory requirements of State Historic Rehabilitation tax credit projects.

These regulations establish procedures for awarding state tax credits to qualifying Applicants pursuant to RTC sections 17053.91 and 23691, which authorize CTCAC to award those state tax credits.

Section 11011. Definitions

Certified Historic Structure. For credits issued under RTC section 17053.91, has the same meaning as in RTC section 17053.91. For credits issued under RTC section 23691, has the same meaning as in RTC section 23691.

Committee. The CTCAC governing board or a successor governing body that approves the project awards.

CTCAC. The California Tax Credit Allocation Committee.

Eligible Project. A project deemed eligible by the Office of Historic Preservation to apply to CTCAC for credits issued under RTC sections 17053.91 and 23691.

FTB. Franchise Tax Board.

OHP. Office of Historic Preservation.

Qualified Residence. For credits issued under RTC section 17053.91, has the same meaning as in RTC section 17053.91. For credits issued under RTC section 23691, has the same meaning as in RTC section 23691.

Qualified Rehabilitation Expenditure. For credits issued under RTC section 17053.91, has the same meaning as in RTC section 17053.91. For credits issued under RTC section 23691, has the same meaning as in RTC section 23691.

RTC. Revenue and Taxation Code.

Taxable Year. For credits issued under RTC section 17053.91, has the same meaning as in RTC section 17010. For credits issued under RTC section 23691, has the same meaning as RTC section 23041.

Section 11012. Joint Application and Compliance Process

- (a) Joint Application. Applicants for a credit available under RTC sections 17053.91 and 23691 shall use the joint application established by OHP and CTCAC.

If OHP designates the project to be a certified historic structure that is eligible for a credit available under RTC sections 17053.91 and 23691, the application package for CTCAC shall include that certification from OHP.

The per project award amount requested in the joint application shall only be allowed in an amount equal to or more than five thousand dollars (\$5,000) but not exceeding twenty-five thousand dollars (\$25,000). A taxpayer shall only be allowed a credit pursuant to this paragraph once every 10 taxable years.

Applicants may apply at any time, without specific rounds or deadlines and shall meet all requirements prescribed in the joint application.

A complete application is one that includes all required information and documentation listed in the joint application form established by OHP and CTCAC.

- (b) Allocation of Credit. CTCAC shall review each eligible project application. If the application is approved by the Committee, the project shall be allocated a percentage of qualified rehabilitation expenditures.

CTCAC shall allocate the credit available under RTC sections 17053.91 and 23691 among projects deemed eligible by OHP, pursuant to regulations adopted by OHP.

CTCAC may issue a tax credit certification to one or more projects and allocate some or all of the available credit to qualified projects.

In no event shall the total amount of credit certificates issued for any given year exceed the total amount of credits that are available to be allocated for that year pursuant to RTC sections 17053.91 and 23691.

- (c) Fees. CTCAC shall impose fees in an amount that does not exceed the reasonable costs incurred by CTCAC in fulfilling the responsibilities described in this chapter.
 - (1) Processing Fee. A fee in the amount \$1,500 shall be submitted to CTCAC at the time the joint application is submitted to CTCAC.
 - (2) Administrative Fee. For projects allocated a tax credit pursuant to this chapter, a fee in the amount of one thousand dollars (\$1,000) shall be submitted to CTCAC within ten (10) calendar days of allocation.
- (d) Compliance. For projects allocated credits pursuant to this chapter, the taxpayer shall demonstrate and verify through annually required tax documentation submitted to FTB that the qualified residence is used as the principal residence, within two years following the completion of rehabilitation of a qualified residence. Failure to provide that tax documentation to CTCAC, or to meet that principal residence requirement, shall result in the recapture of the credit. CTCAC shall report to FTB noncompliant taxpayers.
- (e) Appeal. An appeal to CTCAC staff's determination shall be submitted in writing to the Executive Director and received no later than seven (7) calendar days following the transmittal date of CTCAC staff's determination letter. Appeals shall identify specifically the appellant's grounds for the appeal. The Executive Director will respond in writing within seven (7) calendar days after receipt of the appeal letter. An appeal to the Committee shall be submitted in writing to CTCAC and received no later than seven (7) calendar days following the transmittal date of the Executive Director's letter.

Section 11013. Repeal Provision

This chapter shall be repealed January 1, 2027, for taxable years beginning on or after January 1, 2021, and before January 1, 2027, the amount of credit allowed pursuant to this section shall be zero dollars (\$0).