

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE F. FRANCHISE TAX; CREDITS

CHAPTER 172. TAX CREDIT FOR CERTIFIED REHABILITATION OF CERTIFIED  
HISTORIC STRUCTURES

Sec. 172.101. DEFINITIONS. (a) Terms used in this chapter and defined by Chapter 171 have the meanings assigned by Chapter 171.

(b) In this chapter:

(1) "Certified historic structure" means a property in this state that is:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under Section 442.006, Government Code, or as a state archeological landmark under Chapter 191, Natural Resources Code; or

(C) certified by the commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a local district certified by the United States Department of the Interior in accordance with 36 C.F.R. Section 67.9.

(2) "Certified rehabilitation" means the rehabilitation of a certified historic structure that the commission has certified as meeting the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.

(3) "Commission" means the Texas Historical Commission.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 805 (H.B. 3230), Sec. 1, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 8(a), eff. June 14, 2017.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 8(b), eff. January 1, 2022.

Redesignated and amended by Acts 2021, 87th Leg., R.S., Ch. 497 (H.B. 3777), Sec. 1, eff. January 1, 2022.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 4044, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 172.102. ELIGIBLE COSTS AND EXPENSES. (a) Subject to Subsections (b) and (c), in this chapter, "eligible costs and expenses" means qualified rehabilitation expenditures as defined by Section 47(c)(2), Internal Revenue Code.

(b) Except as provided by Subsection (c), the depreciation and tax-exempt use provisions of Section 47(c)(2), Internal Revenue Code, do not apply to costs and expenses incurred by an entity exempted from the federal income tax under Section 501(a), Internal Revenue Code, and those costs and expenses are eligible costs and expenses if the other provisions of Section 47(c)(2), Internal Revenue Code, are satisfied.

(c) Expenditures by an entity described by Subsection (b) to rehabilitate a structure that is leased to a tax-exempt entity in a disqualified lease, as those terms are defined by Section 168(h), Internal Revenue Code, are not eligible costs and expenses.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 805 (H.B. 3230), Sec. 1, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 773 (H.B. 1003), Sec. 8(a), eff. June 14, 2017.

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Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

Sec. 172.103. ELIGIBILITY FOR CREDIT. An entity is eligible to apply for a credit in the amount and under the conditions and limitations provided by this chapter against the taxes imposed under Chapter 171 of this code and, as provided by Section 172.109(e), Chapters 221, 222, 223, and 224, Insurance Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

Sec. 172.104. QUALIFICATION. An entity is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure as provided by this chapter if:

(1) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(2) the entity has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation; and

(3) the total amount of the eligible costs and expenses incurred exceeds \$5,000.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

Sec. 172.105. CERTIFICATION OF ELIGIBILITY. (a) Before

claiming, selling, or assigning a credit under this chapter, the entity that incurred the eligible costs and expenses in the rehabilitation of a certified historic structure must request from the commission a certificate of eligibility on which the commission certifies that the work performed meets the definition of a certified rehabilitation. The entity must include with the entity's request:

- (1) information on the property that is sufficient for the commission to determine whether the property meets the definition of a certified historic structure; and

- (2) information on the rehabilitation, and photographs before and after work is performed, sufficient for the commission to determine whether the rehabilitation meets the United States secretary of the interior's Standards for Rehabilitation as defined in 36 C.F.R. Section 67.7.

(b) The commission shall issue a certificate of eligibility to an entity that has incurred eligible costs and expenses as provided by this chapter. The certificate must:

- (1) confirm that:

- (A) the property to which the eligible costs and expenses relate is a certified historic structure; and

- (B) the rehabilitation qualifies as a certified rehabilitation; and

- (2) specify the date the certified historic structure was first placed in service after the rehabilitation.

(c) The entity must forward the certificate of eligibility and the following documentation to the comptroller to claim the tax credit:

- (1) an audited cost report issued by a certified public accountant, as defined by Section [901.002](#), Occupations Code, that itemizes the eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure by the entity;

- (2) the date the certified historic structure was first placed in service after the rehabilitation and evidence of that placement in service; and

- (3) an attestation of the total eligible costs and

expenses incurred by the entity on the rehabilitation of the certified historic structure.

(d) For purposes of approving the tax credit under Subsection (c), the comptroller may rely on the audited cost report provided by the entity that requested the tax credit.

(e) An entity that sells or assigns a credit under this chapter to another entity shall provide a copy of the certificate of eligibility, together with the audited cost report, to the purchaser or assignee.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

Sec. 172.106. AMOUNT OF CREDIT; LIMITATIONS. (a) The total amount of the credit under this chapter with respect to the rehabilitation of a single certified historic structure that may be claimed may not exceed 25 percent of the total eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

(b) The total credit claimed for a report, including the amount of any carryforward under Section 172.107, may not exceed the amount of franchise tax due for the report after any other applicable tax credits.

(c) Eligible costs and expenses may only be counted once in determining the amount of the tax credit available, and more than one entity may not claim a credit for the same eligible costs and expenses.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

Sec. 172.107. CARRYFORWARD. (a) If an entity is eligible for a credit that exceeds the limitation under Section 172.106(b),

the entity may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of a credit that cannot be claimed in the current year because of the limitation under Section [172.106\(b\)](#).

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. [500](#)), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter [171](#) by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. [1013](#)), Sec. 2, eff. September 1, 2023.

Sec. 172.108. APPLICATION FOR CREDIT. (a) An entity must apply for a credit under this chapter on or with the report for the period for which the credit is claimed.

(b) An entity shall file with any report on which the credit is claimed a copy of the certificate of eligibility issued by the commission under Section [172.105](#) and any other information required by the comptroller to sufficiently demonstrate that the entity is eligible for the credit.

(c) The burden of establishing eligibility for and the value of the credit is on the entity.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. [500](#)), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter [171](#) by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. [1013](#)), Sec. 2, eff. September 1, 2023.

Sec. 172.109. SALE OR ASSIGNMENT OF CREDIT. (a) An entity that incurs eligible costs and expenses may sell or assign all or part of the credit that may be claimed for those costs and expenses to one or more entities, and any entity to which all or part of the credit is sold or assigned may sell or assign all or part of the credit to another entity. There is no limit on the total number of transactions for the sale or assignment of all or part of the total credit authorized under this chapter, however, collectively all transfers are subject to the maximum total limits provided by Section [172.106](#).

(b) An entity that sells or assigns a credit under this section and the entity to which the credit is sold or assigned shall jointly submit written notice of the sale or assignment to the comptroller on a form promulgated by the comptroller not later than the 30th day after the date of the sale or assignment. The notice must include:

- (1) the date of the sale or assignment;
- (2) the amount of the credit sold or assigned;
- (3) the names and federal tax identification numbers of the entity that sold or assigned the credit or part of the credit and the entity to which the credit or part of the credit was sold or assigned; and

- (4) the amount of the credit owned by the selling or assigning entity before the sale or assignment, and the amount the selling or assigning entity retained, if any, after the sale or assignment.

(c) The sale or assignment of a credit in accordance with this section does not extend the period for which a credit may be carried forward and does not increase the total amount of the credit that may be claimed. After an entity claims a credit for eligible costs and expenses, another entity may not use the same costs and expenses as the basis for claiming a credit.

(d) Notwithstanding the requirements of this chapter, a credit earned or purchased by, or assigned to, a partnership, limited liability company, S corporation, or other pass-through entity may be allocated to the partners, members, or shareholders of that entity and claimed under this chapter in accordance with the provisions of any agreement among the partners, members, or shareholders and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified historic structure, provided that the entity that claims the credit must be subject to the tax imposed under Chapter [171](#).

(e) An entity that incurs eligible costs and expenses or to which all or part of a credit is sold or assigned and that is subject to a premium tax imposed under Chapter [221](#), [222](#), [223](#), or [224](#), Insurance Code, may claim all or part of the credit against that tax. The provisions of this chapter, including provisions

relating to the total amount of the credit that may be claimed for a report, the carryforward of the credit, and the sale or assignment of the credit, apply with respect to a credit claimed against a tax imposed under Chapter 221, 222, 223, or 224, Insurance Code, to the same extent those provisions apply to a credit claimed against the tax imposed under Chapter 171 of this code. An entity claiming all or part of a credit as authorized by this subsection is not required to pay any additional retaliatory tax levied under Chapter 281, Insurance Code, as a result of claiming that credit.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 3 (S.B. 550), Sec. 1, eff. May 4, 2017.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.

Sec. 172.110. RULES. The commission and the comptroller shall adopt rules necessary to implement this chapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1232 (H.B. 500), Sec. 14(a), eff. January 1, 2015.

Transferred, redesignated and amended from Tax Code, Subchapter S, Chapter 171 by Acts 2023, 88th Leg., R.S., Ch. 83 (S.B. 1013), Sec. 2, eff. September 1, 2023.