Instructions for 2021-2025 Schedule HR-5

Purpose of Schedule HR-5

Schedule HR-5 is used by persons to claim all five years of the supplement to the federal historic rehabilitation tax credit for the purpose of selling or transferring the credit. By submitting Schedule HR-5, the person is relieved of submitting a separate Schedule HR with each tax return for each of the five years for which the claim relates.

Important: Only claimants who are transferring the supplement to the federal historic rehabilitation tax credit may submit Schedule HR-5. Form HR-T must be submitted with Schedule HR-5 to request to transfer the supplement to the federal historic rehabilitation tax credit.

Five-Year Credit Claim Requirement

For taxable years beginning on or after January 1, 2018, the supplement to the federal historic rehabilitation credit must be claimed ratably over a five-year period beginning with the year the building is place in service; however, a transitional rule allows the full credit to be claimed for qualified rehabilitation expenditures incurred on a building that is owned or leased at all times on or after January 1, 2018, if the taxpayer selected the 24- or 60-month period measuring period by June 20, 2018 (see instructions for line 2c).

Wisconsin Agencies Administering the Credit

- The Wisconsin Historical Society administers the rehabilitation requirements of the historic preservation program. For more information, visit the Historical Society's website at: wisconsinhistory.org/Content.aspx?dsNav=N:1189, write to the Division of Historic Preservation, Wisconsin Historical Society, 816 State Street, Madison, WI 53706-1417, or call (608) 264-6490.

- The Wisconsin Economic Development Corporation (WEDC) certifies the maximum amount of supplement to the federal historic rehabilitation credits that may be awarded. For more information, contact WEDC at: wedc.org/inside-wedc/contact-us/#regional or call 1-855-469-4249.

- The Department of Revenue (DOR) administers claiming and using historic tax credits on tax returns and certifies credit transfers. For more information, visit the department's website at: revenue.wi.gov/Pages/FAQS/pcs-historic-transfer.aspx, email us at: DORFranchise@wisconsin.gov, or call (608) 266-2772.

Qualifications to Claim the Credit

To qualify for the supplement to the federal historic rehabilitation tax credit, you must meet the following requirements:

- You must own (or, in certain cases, lease) property that is listed on the national register of historic places in Wisconsin or the state register of historic places, or is determined by the state historical society to be eligible for listing on the national register of historic places in Wisconsin or the state register of historic places, or is located in a historic district that is listed in the national register of historic places in Wisconsin or the state register of historic places and is certified by the state historic preservation officer as being of historic significance to the district, or is an outbuilding of an otherwise eligible property certified by the state historic preservation officer as contributing to the historic significance of the property.

- For certified historic structures, qualified rehabilitation expenditures means that the building must be depreciable property that is either nonresidential rental property, residential rental property, or real property with a class life of more than 12.5 years. If only part of the building qualifies only the rehabilitation expenditures allocable to the qualified portion may be used to figure the credit.

- For a qualified rehabilitated building, the building must have been substantially rehabilitated and was placed in service before the beginning of the rehabilitation.

- You must substantially rehabilitate the building. For certified historic structures, a building is considered to be substantially rehabilitated if your qualified rehabilitation expenditures are at least $50,000. The expenditure test must be met within a 24-month (or, for phased rehabilitation projects, a 60-month) period that you select and that ends with or within your taxable year. Figure your adjusted basis on the first day of the 24-month or 60-month rehabilitation period. "Qualified rehabilitation expenditures" are amounts incurred that must be capitalized and added to the basis of the building rather than deducted. Qualified expenditures don't include any amount being depreciated under an accelerated method, the cost of acquiring the building itself or any interest in the building, or any expense incurred for the enlargement of an existing building.

- You must design and carry out the work in accordance with the "Secretary of the Interior's Standards for Rehabilitation."
- You must formally apply to the National Park Service, through the Wisconsin Historical Society, for certification of your project, and the Secretary of the Interior must approve the project.

Caution: The physical work of construction, or destruction in preparation for construction, cannot begin until the State Historic Preservation Officer recommends the project to the Secretary of the Interior for approval or the Secretary of the Interior approves the project, whichever is earlier.

Date a Project Is Begun

The date a project is "begun" is the date on which the physical work of rehabilitation begins. The physical work of rehabilitation doesn't include preliminary activities such as planning, designing, securing financing, exploring, researching, developing plans and specifications, or stabilizing a building to prevent deterioration, such as placing boards over broken windows.

Adjustment to Basis

If you qualify for the supplement to the federal historic rehabilitation tax credit, you must add the qualified rehabilitation expenditures to the basis of the building and depreciate them by the straight-line method. In addition, you must subtract the amount of credit computed from the basis of the building.

If you qualify for the state historic rehabilitation credit, you must decrease the basis of the property by the amount of credit computed.

Carryover of Unused Credits

The historic rehabilitation credits are nonrefundable. Any unused credits may be carried forward for 15 years. If there is a reorganization of a corporation claiming historic rehabilitation credits, the limitations provided by IRC section 383 may apply to the carryover of any unused credits.

Recovery of Credits

In cases where the Wisconsin Historical Society later determines that the claimant hasn't complied with all of the requirements for the state historic rehabilitation credit, the Department of Revenue may recover all or a portion of the credit.

If DOR adjusts or disallows, in whole or in part, a credit that has been transferred, only the person who originally transferred the credit to another person is liable to repay the adjusted or disallowed amount.

If the same qualified rehabilitation expenditures are used to claim the federal rehabilitation tax credit and Wisconsin supplement to the federal historic rehabilitation tax credit, and the federal credit is required to be repaid, the Wisconsin credit must also be repaid.

Specific Line Instructions

Special instructions for credits received from pass-through entities: If the credit is received from an estate or trust, partnership or LLC treated as a partnership, or tax-option (S) corporation, complete lines 2c and 2d, and lines 5 through 11 as appropriate. Lines 1, 2a, 2b, 3, and 4 can be left blank.

Line 1 – Enter the adjusted basis in the building on the first day of the 24-month or 60-month rehabilitation period. The Adjusted basis of a building is the cost of the property (excluding land) plus or minus adjustments to basis. Increases to basis include capital improvements, legal fees incurred in perfecting title, zoning costs, etc. Decreases to basis include deductions previously allowed or allowable for depreciation. See Treasury Regulation 1.48-12(b)(2)(iii) for more information.

Lines 2a & 2b – Check the box to indicate whether you are electing to claim the credit based on when the rehabilitation work is completed or when the expenditures are paid. If you are claiming the credit based on when the expenditures are paid, enter the total amount of qualified rehabilitation expenditures paid on the project to date.

Important limitation: You cannot elect to claim the Wisconsin supplement to the federal historic rehabilitation credit in a different taxable year than you are claiming the federal historic rehabilitation credit. Transferees may not use the credit to offset tax on a tax return for a period that is earlier than the taxable year allowed for the original claimant.

Lines 2c & 2d – Enter the dates on which the 24 or 60-month measuring period begins and ends. Claimants receiving the credit from a pass-through entity should also complete lines 2c and 2d.

The IRS extended the end date for the 24 and 60-month period in which to claim expenses for the historic tax credit due to COVID-19. This means that for a 24 or 60-month measuring period that would normally end on or after April 1, 2020, and before March 31, 2021, taxpayers now have until March 31, 2021 to satisfy the substantial rehabilitation test.

Line 2e – Enter the amount of qualified rehabilitation expenditures you are including in the credit computation for the current taxable year, based on the election you indicated on line 2a or 2b. If you are claiming the credit based on when the rehabilitation work is completed, fill in the total qualified rehabilitation expenditures for the project. If you are claiming the credit based on when the expenditures are paid, only fill in the qualified rehabilitation expenditures paid during the taxable year.

Line 2f – Enter the qualified rehabilitation expenditures for which the credit is computed for the current taxable year. In order to claim the credit, the qualified rehabilitation expenditures during the 24-month or 60-month rehabilitation period must be at least $50,000.

Line 3 – The credit is equal to 20% of the qualified rehabilitation expenditures. Multiply line 2f by 20% (.20) and enter the result.

Line 4 – The credit must be claimed ratably over a five-year period beginning with the year the building is placed in service. To satisfy this requirement, multiply line 3 by 20% (.20) and enter the result on lines 4a through 4e.

Line 5 – Enter the amount of credit passed through from estates or trusts, as shown on Schedule 2K-1; partnerships and LLCs treated as partnerships, as shown on Schedule 3K-1; and tax-option (S) corporations, as shown on Schedule 5K-1.

Line 6 – Enter the amount of supplement to the federal historic rehabilitation tax credit that was transferred from other taxpayers during the current taxable year.

Line 7 – Add lines 4f, 5d, and 6. This is your 2021-2025 credit.

Line 7a – *Fiduciaries only* – Prorate the credit from line 7 between the entity and its beneficiaries in proportion to the income allocable to each. Show the beneficiaries portion of the credit on line 7a. Show the credit for each beneficiary on Schedule 2K-1.

Line 7b – *Fiduciaries only* – Subtract line 7a from line 7. This is the estate's or trust's portion of the credit.

Line 8 – Enter the amount of unused supplement to the federal historic rehabilitation tax credit from Schedule CF. Include a copy of Schedule CF with your tax return.

Line 9 – Add lines 7 and 8 unless you are a fiduciary. Fiduciaries should add lines 7b and 8.

Line 10 – Enter the amount of supplement to the federal historic rehabilitation tax credit that was transferred to other taxpayers during the current taxable year. If all five years-worth of credits are being transferred, enter the total amount of credits from line 4f.

Line 11 – Subtract line 10 from line 9. This is the available supplement to the federal historic rehabilitation tax credit.

- **Individuals:** Enter the amount of credit from line 11 on the appropriate line of Schedule CR.
- **Estates and Trusts:** Enter the amount of credit from line 11 on the appropriate line of Schedule CR.
- **Tax-Option (S) Corporations:** Prorate the credit on line 11 among the shareholders based on their ownership interests. Show the credit for each shareholder on Schedule 5K-1.
- **Partnership and LLCs Treated as Partnerships:** Prorate the credit on line 11 among the partners or members based on their ownership interest or you may allocate the credit among the partners or members as provided in a written agreement. Show the credit for each partner or member on Schedule 3K-1.
- **Corporations:** Enter the amount of credit from line 11 on the appropriate line of Schedule CR. If the claimant is a combined group member, enter the amount of credit on Form 6, Part V, line 1 instead of Schedule CR.

Required Attachments

- Include a copy of the final certification of completed work from the National Park Service with Schedule HR-5.
  - For properties not yet listed in the National Register of Historic Places, include a copy of the signed letter from the National Park Service certifying that the completed rehabilitation meets the "Secretary of the Interior's Standards for Rehabilitation." If you haven't received the final certification by the time the tax return is filed, include a copy of the "Historic Preservation Certification Application (Part 2 - Description of Rehabilitation)."
  - Include a copy of the final certification of completed work to the first income or franchise tax return filed after receipt of the certification along with an explanation of the amount and the years in which the credit was claimed. If the credit is passed through from a partnership, LLC treated as a partnership, tax- option (S) corporation, estate, or trust, include a copy of your Schedule 3K-1, 5K-1, or 2K-1 instead of the final certification.
- If the credit of a partnership or LLC treated as a partnership is allocated as provided in a written agreement, the partnership or LLC must also attach a copy of the agreement to its partnership return (Wisconsin Form 3), and each partner or member receiving the credit must attach a copy of the agreement to the return on which they claim the credit.
- A copy of the certification of eligibility issued by the Wisconsin Economic Development Corporation.
- If you are claiming a carryover of the supplement to the federal historic rehabilitation credit from a prior taxable year, include Schedule CF with your tax return.

Transfer of the Supplement to the Federal Historic Rehabilitation Tax Credit

For taxable years beginning on or after January 1, 2014, any person, including a nonprofit entity described in section 501(c)(3) of the Internal Revenue Code, may sell or otherwise transfer the credit, in whole or in part, to another person who is subject to the taxes imposed under secs. 71.02, 71.08, 71.23, or 71.43, Wis. Stats., if the person notifies the Department of Revenue (DOR) of the transfer, and submits with the notification a copy of the transfer documents, and DOR certifies ownership of the credit with each transfer.

The purchaser can first use the credit in the tax year the purchase is completed. For example, a tax credit from the 2017 tax year is purchased in 2021. The credit can be used by the purchaser in tax year 2021 or later. The purchaser cannot amend their tax return to use the credit in 2017, 2018, 2019, or 2020.

If DOR adjusts or disallows, in whole or in part, a credit that has been transferred, only the person who originally transferred the credit to another person is liable to repay the adjusted or disallowed amount.

Credit Certification

No person may claim the credit without first being certified by the Wisconsin Economic Development Corporation (WEDC) and including a copy of the certification with their return. WEDC may certify a person to claim the credit if WEDC determines that the person is conducting an eligible activity. For certification purposes, the claimant shall provide to WEDC all of the following:

- Evidence that the rehabilitation was recommended by the State Historic Preservation Officer for approval by the Secretary of the Interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for construction, began and that the rehabilitation was approved by the State Historic Preservation Officer.
- Evidence that the taxpayer obtained written certification from the State Historic Preservation Officer that:

  1. The property is listed on the National Register of Historic Places in Wisconsin or the State Register of Historic Places, or is determined by the State Historical Society to be eligible for listing on the National Register of Historic Places in Wisconsin or the State Register of Historic Places, or is located in a historic district that is listed in the National Register of Historic Places in Wisconsin or the State Register of Historic Places and is certified by the State Historic Preservation Officer as being of historic significance to the district, or is an outbuilding of an otherwise eligible property certified by the State Historic Preservation Officer as contributing to the historic significance of the property.
  2. The proposed preservation or rehabilitation plan complies with standards promulgated under sec. 44.02 (24), Wis. Stats., and the completed preservation or rehabilitation substantially complies with the proposed plan.
  3. The costs are not incurred to acquire any building or interest in a building or to enlarge an existing building.
  4. The costs were not incurred before the State Historical Society approved the proposed preservation or rehabilitation plan.

Carryforward of Transferred Credits

The carryforward period for credits purchased will continue to be the remaining carryforward period of the original holder of the credits. For example, if a claimant purchases a supplement to the federal historic rehabilitation tax credit with a remaining credit carryforward of 8 years at the time of purchase, the purchaser will also have an 8 year credit carryforward.

Tax Issues

The entity transferring the tax credit will be required to recognize a capital gain on the sale of the credit equal to the difference between the basis of the tax credit, which would be zero unless the seller previously purchased the tax credit for consideration, and the fair market value of consideration received for the credit. The character of the capital gain as either short-term or long-term is determined based on the amount of time between the date the seller made the qualifying investment and the date the credit is transferred. If the time period is more than one year, it is a long-term capital gain; if the time period is one year or less, it is a short-term capital gain.

The entity purchasing the tax credit will recognize capital gain income when the credit is used to offset a Wisconsin income tax liability. The capital gain recognized is equal to the difference between the purchaser's basis in the tax credit, which is the fair market value of consideration paid for the tax credit and any transaction costs incurred to acquire the tax credit, and the amount of Wisconsin income tax liability satisfied by use of the tax credit. The character of the capital gain as either short-term or long-term is determined based on the amount of time between the date the purchaser acquired the tax credit and the date the credit is used to offset the purchaser's Wisconsin income tax liability. If the time period is more than one year, it is a long-term capital gain; if the time period is one year or less, it is a short-term capital gain.

For purposes of determining when the holding period commences, the date the seller made the qualified investment means the date the property is placed into service. For example, if a taxpayer placed qualified property into service on September 16, 2020, long-term capital gain treatment would apply beginning September 17, 2021.

Additional Information

For more information, you may:

- Access common questions at: revenue.wi.gov/Pages/FAQS/pcs-historic-transfer.aspx
- Email your question to: DORFranchise@wisconsin.gov
- Call (608) 266-2772 [TTY: Call the Wisconsin Telecommunications Relay System at 711, if no answer, dial 1-800-947-3529]
- Send a FAX to (608) 267-0834
- Write to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 3-107, PO Box 8906, Madison, WI 53708-8906.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 1, 2021: Chapter 71 Wis. Stats.