810-3-137-.02 Historic Rehabilitation Tax Credit of 2017 - Availability, Claiming and Transferability of the Historic Rehabilitation Tax Credit.

(1) This rule sets forth guidelines and procedures to be used by the department in the administration of the Historic Rehabilitation Tax Credit of 2017, as codified in Article 2 of Chapter 9F of Title 40, Code of Ala. 1975, which provides for a tax credit under Chapter 18 of Title 40 to Alabama taxpayers for the rehabilitation of certain historic and certain non-historic buildings in Alabama.

(2) The owner of a project that has been issued a Tax Credit Certificate shall forward a copy of the Tax Credit Certificate to the department within 30 days from the date of issuance.

(3) Credits may only be claimed by taxpayers holding a Tax Credit Certificate or a Transfer Tax Credit Certificate. Tax credits granted or transferred to a pass-through entity shall be claimed at the entity level. Tax credits granted or transferred to a single member limited liability company or a Q-sub that is disregarded for Federal Income Tax purposes shall be claimed by the owner of the disregarded entity. Any non-profit entity allowed a tax credit shall file an Alabama Income Tax Return for the tax year the project is placed in service to claim the credit.

(4) A taxpayer must apply the entire tax credit against the Income Tax imposed by Chapter 18 for the taxable year in which the certified rehabilitation is placed in service. Where the taxes owed by the taxpayer are less than the tax credit, the taxpayer shall be entitled to claim a refund for the difference. The tax credit cannot be carried forward to any subsequent tax year.

(5) On or after the date the Tax Credit Certificate is issued to the project, the owner of the project may transfer all or part of their credit. Once a credit is transferred, only the Transferee may utilize such credit and the credit cannot be transferred ~~again~~. **Once the credit is transferred, it is nonrefundable, and cannot be carried forward.**

(6) Any tax credit transferred shall be at the value of at least eighty-five percent (85%) of the present value of the tax credits. The present value shall be determined by discounting the face value of the tax credit to account for the time value of money considering the time between the date the tax credit is transferred and the due date of the Transferee's Alabama Income Tax Return for the tax year the credit must be claimed using a discount rate equal to the federal short-term rate plus three (3) percentage points in effect as of the first of the month the tax credit is transferred.

Example:

Project Z is placed in service June 15, 2019. The project owner transfers the credit to Transferee with a face value of $1,000 on September 30, 2019, when the discount rate of interest equals four percent (4%). The Transferee is a calendar year end filer with an Alabama Income Tax Return due date of March 15, 2020. For purposes

of applying the statutory 85% of present value limitation, the present value of the tax credit is calculated by multiplying the tax credit's face value by 1 divided by (1+6/12 of 4%) or $1,000 x [1/1 + (6/12 x 4%)] or $1,000 x 1/1.02 or $1,000 x 98% which equals a present value of $980. The $980 present value is then multiplied by 85% to establish a minimum sale price for the tax credit of $833.33.

(7) Prior to the effectiveness of a transfer, the Transferor shall file a Transfer Statement with the department along with a copy of the draft or final Transfer Agreement(s), a copy of the Tax Credit Certificate and a $1,000 fee for each Transferee listed on the Transfer Statement. Unless previously filed, the Transferor shall also file a copy of the executed Transfer Agreement with the department no later than 30 days after the agreement has been executed. The department shall issue a Transfer Tax Credit Certificate to each Transferee for the amount listed on the Transfer Statement within 30 days after receipt of the executed Transfer Agreement. If the amount of the Transferee's tax credit listed in the agreement is different from the Transfer Statement originally filed with the department, the Transferor shall submit an amended Transfer Statement with the executed agreement.

(8) The aggregate amount of the tax credit taken or utilized by the owner or Transferees cannot exceed the amount of credit awarded on the related Tax Credit Certificate or Transfer Tax Credit Certificate, as applicable.

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