

810-3-136-.01 Historic Rehabilitation Tax Credit of 2013 – General Guidelines.

(1) This rule sets forth guidelines and procedures to be used by the Department of Revenue in the administration of the Historic Rehabilitation Tax Credit of 2013, as codified in Article 1 of Chapter 9F of Title 40 of the Code of Ala. 1975, which provides for a tax credit under Chapters 16 and 18 of Title 40 to Alabama taxpayers for the rehabilitation of certain historic and certain non-historic buildings in Alabama.

(2) Definitions. In addition to the following definitions, for purposes of this rule, all terms shall have the same meanings as provided by Alabama Historical Commission Rule 460-X-23-.02 or as defined in the Act.

(a) Department. The Alabama Department of Revenue.

(b) Commission. The Alabama Historical Commission.

(c) Tax Credit Certificate. A written form or letter issued by the Commission to the Owner of the Project awarded a historic rehabilitation credit providing information about the Project and the total amount of credit issued to the Project.

(d) Transfer Tax Credit Certificate. A certificate issued by the Department to a Transferee providing information about the Project for which a Historic Rehabilitation Tax Credit Certificate has been issued and the amount of credit allocated to the Transferee.

(e) Allocation Schedule. A list identifying the Owners, or if the Owner is a pass through entity, its members or partners, and the amount of credit allocated to each partner, member or owner. If there is more than one Owner or if the Owner is a pass-through entity, the Allocation Schedule is required to be filed with the Department as part of the Tax Credit Certificate or the Transfer Statement.

(f) Recipient Tax Credit Certificate. A form, promulgated by the Department that is issued to an Owner, partner or member identifying the amount of credit allocated to the taxpayer. This form shall be issued by the Owner if there is more than one Owner of the Project or if the Owner is a pass-through entity (or issued by a pass-through entity that is a partner or member of the Owner), and is required to be filed with the taxpayer's tax return.

(g) Transferor. Any Owner, partner, or member of a Project for which a Historic Rehabilitation Tax Credit Certificate was issued, which transfers all or part of their portion of the credit.

(h) Transferee. Any taxpayer that is transferred all or a portion of a historic rehabilitation tax credit.

(i) Transfer Statement. A statement to be filed with the Department by the Transferor prior to the effectiveness of the transfer that identifies the Transferor and each Transferee, the amount of tax credit to be transferred to each Transferee, and the date the Project was placed in service.

(j) Transfer Agreement. A written contract between the Transferor and the Transferee that provides the following information, but may also contain such other information as the Department may from time to time require:

1. Description and address of the Project that has been issued a Historic Rehabilitation Tax Credit Certificate;
2. The date the Project was placed in service;
3. The amount of credit being transferred to Transferee;
4. The Transferee acknowledges that the recapture of a credit, other than a credit that is improperly obtained by the Owner, shall apply against the Transferee or any person to whom the tax credits have been passed through and utilized pursuant to Rule 810-3-136-.03(2), and
5. The Transferor is required to notify the Transferee of any recapture or related adjustments of the credit within 30 days after the Transferor is notified that the credit has been recaptured or adjusted.

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Statutory Authority: Section 40-2A-7(a)(5) and Title 40, Chapter 9F, Article 1, Code of Ala. 1975.
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