

HISTORIC TAX CREDIT TOOL BOX



Historic Designations: What, When and Why

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It seems simple enough: To use historic tax credits (HTCs), a building must be historic. Straightforward, right? Well, as is usually the case when that question is asked, the answer is no. There are multiple types of historic designations—individual listings, historic districts, federal designations, state designations and local designations. Further, there are timing issues and designation specifics which could affect an HTC project. “Historic” is not as straightforward as it seems.

National Register and the Federal Historic Tax Credit

To receive federal HTCs, a building must be a “certified historic structure” as defined in Federal Code 36CFR67. There are three ways in which a building may be considered a certified historic structure: must be listed individually in the National Register of Historic Places (National Register), a contributing resource within a historic district listed in the National Register or a contributing resource within a local historic district that has been certified historic by the National Park Service (NPS).

When applying for federal HTCs, it is important to understand that the process is different depending on the building’s historic designation. If a building is listed individually in the National Register, one can move forward and submit the Part 2-Description of Rehabilitation. If a building is located within a historic district that is listed in the National Register or is located within a local historic district that has been certified by the NPS, one must submit a Part 1-Evaluation of Significance application to confirm that the building is a contributing resource to the historic district and thus a Certified Historic Structure. Should a building have no historic designation, or any other historic designation not noted above (local landmark, noncertified local or state historic district), then a Part 1 application will need to

be submitted to obtain a preliminary determination of eligibility from the NPS. Once the NPS has approved the Part 1, the building and/or district will need to be listed within the National Register for the building to be a certified historic structure.

Confused? Historic consultants can handle the details of the process—and for any HTC project, retaining a qualified historic consultant is key to avoiding misunderstandings related to designation and avoiding lengthy delays if designation is ultimately required.

If a building is already a certified historic structure (individually listed in the National Register or located within a historic district and certified through the submission of a Part 1 application), no further steps are necessary. Should a building not yet be a certified historic structure, you will need to submit your Part 1-Evaluation of Significance application to receive a preliminary determination of eligibility for listing in the National Register. The Part 1 application would include photographs of the building, a written description and a narrative detailing the history of the building and its historic significance. Heritage recommends submitting the Part 1 as soon as possible, as the NPS will not review the Part 2 application until the Part 1 is approved. It is, after all, important to ensure that a building is historic to apply for HTCs.

Once the NPS has approved the Part 1 application and determined that the building appears eligible for listing in the National Register, the building will need to be officially nominated and listed in the National Register to be considered a Certified Historic Structure. Here is where timing is paramount. Once construction is complete, the Part 3-Certification of Completed Work application is submitted to confirm that the project is in conformance

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with the Secretary of the Interior’s Standards for Rehabilitation. An approved Part 3 application confirms that the project is a “Certified Rehabilitation.” While the NPS will review a Part 3 application and confirm that the work was completed in accordance with the Secretary of the Interior’s Standards for Rehabilitation, to have an approved Part 3 and a Certified Rehabilitation, the program regulations indicate that a building must be a certified historic structure. In other words, if a property isn’t a certified historic structure, it won’t get a Part 3 approval. While you have 30 months after your Part 3 submission to have the building listed and certified, it is generally advantageous to initiate the National Register listing process as soon as possible to prevent any delay in Part 3 approval. The National Register listing process can take upward of 12 to 18 months, so timing is important.

Once a building is considered a certified historic structure by the NPS, you’re all set with the historic designation required for the federal HTC, though there are other types of historic designations which could affect the building.

State Registers of Historic Places

Another type of designation is listing in a state register of historic preservation. The state register programs vary and not all states have a state register program. Some may parallel the National Register application, while others have different forms and criteria. Additionally, some states automatically include a building listed in the National Register on their state register. In general, if you’re applying for the federal HTC and need to list your building, you would submit a National Register nomination and have the building listed in the state register only if the state does this automatically.

In certain situations, a project owner may only request state HTCs, in which case it may be preferable to only submit for listing in the state register to limit the time and expense necessary to see a building through the National Register process. The primary financial benefit to listing in the state register may be the facilitation of state HTCs. In certain states, such as Connecticut, state HTCs are only available to buildings that are already listed in the state or national registers. Where credits are

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The former New Britain (Conn.) High School campus was listed in the state register to become eligible for a 25 percent state HTC.



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limited or not available until the building is listed, it may be advantageous to have a building listed in the state register as this process generally is more expedient than full National Register listing.

In New Britain, Conn., the former New Britain Public High School campus, which was previously converted into senior housing in the late 1970s, was determined to be eligible for listing in the National Register as part of a HTC project. The development applicant, Vitus Group, proposed using HTCs to update and modernize the campus for the benefit of its senior residents. Connecticut offers a 25-percent historic rehabilitation tax credit to be twinned with the federal HTC. In Connecticut, to be eligible for the state credit, a building must already be listed individually or as a contributing resource with a state or National Register-listed historic district. While the school campus had received a preliminary determination of eligibility (approved Part 1) from the NPS, it was not yet eligible for the state credit. To make the project eligible, it was determined that listing in the state register would be the most expeditious path. While the project applicant will also go through the National Register process as required to receive NPS Part 3 approval, the building has been listed in the state register and is thus eligible for the state HTCs.

Local Historic Designation

In many municipalities, there is a process by which buildings and historic districts may be designated locally historic. These designations may have different terms, most notably local landmarking and local registers of historic places. Local designations tend to stoke fear in property owners, as they often include mandatory local design review for any exterior changes proposed to a building. While these designations are perceived as an undue burden and an additional layer of review, there are many municipalities that offer financial benefits that may offset the additional local design review requirements.

In Chicago, locally landmarked buildings are eligible for the Class "L" Property Tax Incentive, which provides a 12-year property tax reduction for approved projects. In Dallas, Texas, three-, five- and 10-year tax exemptions are available for property owners who rehabilitate locally landmarked buildings. Many buildings are already locally designated or located within local historic districts, and thus design review may already be required, therefore applying for local incentives seems to be a no-brainer.

Where a building is not yet locally designated, it is important for the property owner to weigh the pros and cons of local designation. In municipalities where there is only design review but no financial incentives, it is less

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Photo: Courtesy of Heritage Consulting Group

This former New Britain (Conn.) High School campus was listed in the state register. it will still go through the National Register Process.





Photo: Courtesy of Heritage Consulting Group

This is the former library at the old New Britain (Conn.) High School campus, which was listed in the state register to become eligible for a 25 percent state HTC.

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likely that a building owner would solicit local designation. Where there are local incentives, it is important for the owner to understand the design review requirements and determine if the incentives are beneficial.

In Orlando, Fla., GDC Properties purchased the former Orlando Utilities Commission Administration Building and proposed an adaptive reuse of the building into an Aloft Hotel, using federal HTCs. As part of the process, the building was listed in the National Register to become a certified historic structure. During the listing process, it was determined that the building was also eligible for listing as a City of Orlando Landmark. Once the building was designated a local landmark, it became eligible for the city's property tax abatement program, which provides a 10-year exemption applied to the increase in property value due to rehabilitation.

Conclusion

Historic designations can be a sticky subject, with property owners trying to balance benefits with potential restrictions. For property owners contemplating the use of the federal HTC, a building must be a certified historic structure, and it is important that this designation occurs early in the HTC application process to ensure

that the Part 3 certification is not delayed. State historic designations may be automatic when properties are listed in the National Register. State listing may be beneficial where state historic tax credit programs are involved and timing for applications and awards are more stringent than for the federal program. Local designation, which mandates local design review, should not be automatically ruled out. Many municipalities have local incentives for rehabilitations that are only available to buildings that are locally listed. Further, in cases where a building owner is applying for federal and/or state HTCs, design review at these levels is already required. It is critical to understand the timing, requirements, benefits and potential obstacles with each level of designation to ensure that an HTC project maximizes opportunities. ♦

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