Novogradac
Journal of Tax Credits
News, Analysis and Commentary On Affordable Housing, Community Development and Renewable Energy Tax Credits

January 2016 • Volume VII • Issue I

Published by Novogradac & Company LLP

HISTORIC TAX CREDIT TOOL BOX

State of the State…Historic Tax Credits

JOHN M. TESS, HERITAGE CONSULTING GROUP

Happy New Year and welcome to 2016! It's that time of the year when we make and break resolutions; when we take stock of the developments of the past year and look ahead to those in the year to come. In the spirit of the New Year, it seems appropriate to provide an update regarding the status of the state historic tax credit (HTC) programs throughout the country.

While the federal HTC program has been around in one form or another since 1978, state HTCs are a relatively new tool in the developer's tool box. Although the federal tax credits provide a significant incentive, it is plain to see that the volume of projects being completed in states that have adopted their own HTC programs has significantly increased. Currently, 35 states have active HTC programs, with legislation proposed in four more. While each state's program has different rules and regulations, they generally lean on the framework of the federal program. Obviously, political and economic circumstances vary greatly throughout the states and these differences are reflected in the makeup of each state's program.

Recent Developments

Over the past year, there were a number of developments related to the state HTCs. There were a number of attempts to limit or eliminate state HTCs. In Ohio, the state budget proposal called for the elimination of the HTC, while in Wisconsin, the governor proposed capping the HTC at $10 million per year. Thankfully, the HTC in both states was retained and continues to function. (The February 2016 Novogradac Journal of Tax Credits will feature a detailed look at the Wisconsin HTC.)

In North Carolina, the state HTC was allowed to sunset at the end of 2014. While successful and popular, the state's political landscape forced an extensive campaign by advocates to lobby for the reinstitution of the state HTC, which finally occurred in September. The reinstated North Carolina HTC combined the former state and mill credits into one tiered program starting Jan. 1, 2016. The program has three tiers: 15 percent up to $10 million of qualified rehabilitation expenses (QREs), 10 percent on costs from $10 million to $20 million and no credits on costs of more than $20 million. Bonus credits of 5 percent will be available for projects in certain development tiers and for targeted investment. (A detailed discussion of the new North Carolina HTC can be found in the December 2015 Novogradac Journal of Tax Credits.)

In addition to the restoration of North Carolina's state HTC, good news has been announced in the state of Georgia. Already home to a successful state HTC program, in May 2015, HB 308 was signed into law by

Continued on page 2

Continued from page 1

Gov. Nathan Deal. The current Georgia HTC is capped at $300,000 per project, but HB 308 creates two additional credits for large projects that are completed after 2017. The Georgia HTC will now include a credit of up to $5 million based on total QREs, and a credit of up to $10 million based on total QREs and additional employment or annual payroll requirements. These new HTC programs have a combined annual total cap of $25 million in tax credits.

Challenges Ahead

While we have seen threats to state HTCs in the past, specifically in Michigan and Rhode Island, where the credits were eliminated (thankfully Rhode Island reinstated its HTC program in 2013), it is important for those in the industry to be attuned to the political landscape and to offer their vocal support to keeping these programs active. Without the support of those who use the state HTCs, it will be much easier for fiscally challenged states to look at HTCs as an easily removed line item in the budget. Further, state HTCs often have either a sunset provision or capped funding, either of which can render the program ineffective if successive legislation is not passed. In 2015, we saw examples of both, which hampered two very successful state HTC programs. As discussed previously, the North Carolina HTC sunset at the end of 2014, leaving a gap until it was restored starting Jan. 1, 2016. Obviously, a year without HTCs slowed the pace of adaptive reuse projects. In Mississippi, another highly successful state HTC program withered due to a combination of its own success and legislative delays. Following years

Continued on page 3

Image: Courtesy of David Sundberg
The adaptive reuse project of a former banking hall and office building in Bridgeport, Conn. was aided by the state's HTC.

Continued from page 2

of success, the state's $60 million allocation of HTCs was fully used, leaving a number of approved projects without the funding necessary for completion. While it appears likely that a new 15-year, $100 million allocation will be passed in the 2016 state legislative session, it's difficult for a project to be financed until that allocation is enacted.

Additionally, it is important to work with partners in the industry to encourage legislation in other states to enact HTC programs. States such as California, Michigan and New Jersey are ripe with opportunity, and we could anticipate significantly more adaptive reuse projects if state HTCs were available to twin with the federal credit. In California, AB771 introduced in February 2015, proposes to enact a 20 percent state HTC. Unfortunately, as with a similar bill that was passed by the Legislature in 2014 but ultimately vetoed by the governor, AB771 stalled and its path forward is by no means guaranteed.

Finally, it is important for the industry to lend its support to improving state HTC programs that are already enacted. There are states that get it right, and the use of their programs is significant. Conversely, there are state HTC programs that are not nearly as effective and have little impact in the number of projects being completed in their subject state.

There are three basic elements to a state HTC that make or break its effectiveness: program capping, project capping and applicant's ability to use the credits. A number of states have annual caps on their HTCs that are extremely low and have little impact on adaptive reuse projects. One such state, Indiana, has an annual program cap of $450,000, a number easily used by one small deal. In other states, HTCs are capped per project, such as in Pennsylvania, where awarded projects may only receive up to $500,000 in credits and most projects receive far less in the state's efforts to increase the number of awards.

Finally, transferability of the state HTCs is of utmost importance; obviously the credits are of little value if they cannot feasibly assist in financing a deal. Certain states, including Connecticut, have certificate programs that provide flexibility for transferring the credit. Unfortunately, other states have rules that make usability difficult and lessen the value of the state credits. As new states look to establish new programs, and those with existing programs look to improve them, it is important that the best aspects of each of these three elements be incorporated.

Successes

Although challenges remain, and we must remain vigilant to ensure that state HTC programs remain, as we look at the past year it is important to recognize the success and impact that these incentives have underwritten. Two states which have extremely successful HTC programs are Connecticut and Louisiana. These programs proved invaluable in aiding in the financing of adaptive reuse of historically significant buildings. In Bridgeport, Conn., a challenging adaptive reuse project of a former banking hall and office building was aided by the state's HTC program. Vacant and deteriorated for a decade, the Mechanics and Farmers Building was at a critical juncture where demolition was a realistic possibility. Using the Connecticut state HTC program in conjunction with federal HTCs, Forstone Capital rehabilitated the vacant banking hall and office space for use as the headquarters for an architecture firm as well as residential apartments. In New Orleans, the state tax credit was vital in the adaptive reuse of the 225 Baronne Building by HRI Properties. Unoccupied since being damaged by Hurricane Katrina in 2005, the state HTCs enabled HRI to convert the building for use as an Aloft Hotel and residential apartments.

Successful outcomes facilitated by state HTCs can be seen throughout big and small locales in 35 states. The impact of these credits is visible, tangible and beneficial to local economies and a boon to state coffers. While

Continued on page 4

Continued from page 3

there is always worry that state-level politics and economic concerns could hurt these programs, it is important that those in our industry replay the benefits of the program to lawmakers to demonstrate that these programs make a difference. If there is one resolution we should all keep this New Year, it is to keep these programs on our radar and make it known that they are effective, beneficial to our communities and essential for the adaptive reuse of our historic buildings. ❖

John M. Tess is president and founder of Heritage Consulting Group, a national firm that assists property owners seeking local, state and federal historic tax incentives for the rehabilitation of historic properties. Since 1982 Heritage Consulting Group has represented historic projects totaling more than $3 billion in rehabilitation construction. He can be reached at 503-228-0272 or jmtess@heritage-consulting.com.

This article first appeared in the January 2016 issue of the Novogradac Journal of Tax Credits.

Novogradac
Journal of Tax Credits

CONTACT

CORRESPONDENCE AND EDITORIAL SUBMISSIONS
Alex Ruiz
alex.ruiz@novoco.com
415.356.8088

ADVERTISING INQUIRIES
Carol Hough
carol.hough@novoco.com
415.356.8040

ISSN 2152-646X