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## HISTORIC TAX CREDIT TOOL BOX

# The Historic Tax Credit Coalition: The Industry's Voice for Historic Tax Credits



JOHN M. TESS, PRESIDENT, HERITAGE CONSULTING GROUP

With this issue of the Novogradac Journal of Tax Credits focusing on legislative initiatives and issues, it seemed appropriate to reach out to the chairwoman of the Historic Tax Credit Coalition (HTCC), Merrill Hoopengardner, to discuss the work of that organization.

Merrill is the president of the National Trust Community Investment Corporation, where she has been since 2016. Before that, she was a principal at Advantage Capital Partners, a finance company that specializes in using public-private partnerships to raise venture capital and small business capital for investments and loans in underserved areas. She also previously worked as an attorney at Nixon Peabody LLP, where she specialized in tax credit finance. In full disclosure, I serve on the board of the HTCC and fully endorse its activities.

**Q: What exactly is the Historic Tax Credit Coalition (HTCC)?**

A: The HTCC is a nonprofit stakeholder organization focused on the future of the federal Historic Tax Credit (HTC) program, both in legislative and regulatory matters. Through the HTCC, coalition members advocate for improvements that would make the HTC a more successful program. To date, the HTC program has been incredibly successful. The last NPS HTC report (through Fiscal Year 2018) cited 1,013 projects representing \$6.9 billion in estimated qualifying rehabilitation costs. As importantly, the HTC represents one of only a handful of effective incentives to preserve and rehabilitate older and historic buildings and it is the federal government's most significant investment in preservation.

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**Q: Who is involved in the HTCC?**

A: Since forming in 2009, the HTCC has established itself as a critical voice before Congress as well as key agencies in protecting and expanding the HTC. Our success is largely determined by our growing membership, by the advocacy of our members and by their ongoing involvement in the organization.

The HTCC is an open membership nonprofit and I would be remiss if I did not encourage anyone interested in joining the HTCC to contact me. Our members include businesses representing developers, syndicators, preservation consultants, investors, lawyers, accountants and architects among others. In total, we count more than 75 organizations/companies as members. Our board numbers 13, representing the spectrum of industry. Much of our work is through our committees. Two key committees are the Internal Revenue Service and the National Park Service committees, which work to improve policies, regulations, and administration by working directly with agency partners. We have committees targeting state credits, issues important to investors, as well as national legislative initiatives.

**Q: What are some of the successes of the HTCC?**

On the grand level, HTCC's success is reflected in the continued success and growth of the program. That said, the HTCC has had a number of significant accomplishments both on the legislative and regulatory side.

On the legislative side, our most important accomplishment was retention of the HTC in the Tax Cuts and Jobs Act that went into effect in January 2018. Considered the most sweeping tax reform in three decades, Congressional debates were broad-ranging, with leadership challenging the justification of nearly every major incentive. The HTCC, working with the bipartisan Congressional Historic Preservation Caucus

and supported by preservationists across the country, effectively demonstrated the importance of the HTC as a fundamental preservation and economic tool, one that ultimately returns more money to the federal tax coffers than the incentive took while preserving our nation's heritage.

Similarly, the industry has had a number of legislative successes on the state level, led by some of the Coalition's members and some other national preservation nonprofits. Particularly the recent experience of the Texas state tax credit demonstrates that the added benefit of a state credit can serve as an enormous stimulant where projects combine not only the federal and state HTC but also may link to other incentives such as new markets tax credits and the low-income housing tax credits. Just recently, the governor of California signed into a law a 20 percent state HTC (25 percent for affordable housing projects) that begins Jan. 1, 2021, and will continue at least through 2025. Like many state credits, this incentive can be combined with the federal program as well as other incentives. This state credit is in addition to the current Mills Act property tax incentive. The California success follows similar success in Illinois, which now has a 25 percent HTC through at least 2023 and a 30 percent state HTC it in Hawaii that will not sunset for five years. Currently, there are 36 states with a statewide credit. In these instances, the leadership initiative for these state credits emanated from within through the work of state and local advocates. HTCC played an important role in connecting the larger tax credit industry with the statewide efforts.

While the legislative work is notable, as important is the fundamental behind-the-scenes work the HTCC does with the regulatory agencies. Oftentimes, policy and rule interpretation—or even implementing processes—can be a significant barrier to success. The HTCC has been effective in establishing a working

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relationship with both the National Park Service (NPS) and Internal Revenue Service (IRS), who administer the programmatic and tax regulatory provisions, respectively. We are able to meet directly with program administrators to resolve problem areas.

One good example here is the recent and continuing NPS guidance on functionally related complexes. When program rules on functionally related buildings were first established in the 1980s, no one envisioned complexes as large as a former military base or industrial complex with hundreds of acres and dozens of buildings. Conceptually, the notion was that a single developer would tackle an entire complex in a single project. Yet, as historic preservation projects have grown larger and larger, and particularly involving 20<sup>th</sup> century complexes, the size of the complexes overwhelmed the one-developer, one-project paradigm. But if a complex was split into multiple projects with multiple developers, investors and developers needed assurances that their HTCs would not be contingent on the success of another developer addressing another portion of the complex. For its part, the NPS had a legitimate concern that simply dividing these complexes into independent multiple projects potentially would result in only portions of the complex meeting the Secretary's Standards but perhaps overall conceptually the larger resources would not. The HTCC was able to coherently represent the interests of the preservation consultants, developers, and investors and work with the NPS program administrators to craft more subtle guidance potentially offered a path forward.

A third critical area of success is HTCC's role in creating a forum whereby industry concerns can crystalize into strategic initiatives. The experiences of an individual project may not represent a core problem that requires a legislative or regulatory fix. However, when our members gather together to discuss the state of the program, that dialogue often leads to the identification of problems and unintended consequences. HTCC, through its committees and working relationships, can then start to identify processes going forward and continue the discussion with the bureaus to ensure that the broader issues are addressed.

Finally, the HTCC has successfully advocated with the IRS in the past for rules that make sense around issues like the safe harbor issued after the *Historic Boardwalk Hall* case and guidance around Section 50(d) income. In the future, we are looking to work with the IRS on other guidance affecting the HTC.

**Q: Any final thoughts?**

As chairwoman of the HTCC, I would invite businesses that are involved in the redevelopment of vintage, older and historic properties to consider joining the HTCC. Our strength lies in our numbers. We have established a good working relationship with members of Congress and with program administrators in the relevant agencies. We have a network of advocates on both the national and state level. But fundamentally, the more voices, the better. If you appreciate the value of the HTC for buildings you love and have ideas for how it can be sustained and improved, we would welcome your engagement. ❖

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