

**RULES  
OF  
DEPARTMENT OF REVENUE  
INCOME TAX DIVISION**

**CHAPTER 560-7-8  
RETURNS AND COLLECTIONS**

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**560-7-8-.56 Historic Rehabilitation Tax Credit.**

**560-7-8-.56 Historic Rehabilitation Tax Credit.**

(1) **Purpose.** This regulation provides guidance concerning the implementation and administration of the tax credits under O.C.G.A. § 48-7-29.8.

(2) **Coordination of Agencies.** The Georgia Department of Community Affairs is the state agency responsible for certifying that the rehabilitation meets the requirements of O.C.G.A. § 48-7-29.8.

(3) **Definitions.** As used in this regulation, the terms "certified rehabilitation", "certified structure", "historic home", "qualified rehabilitation expenditure", "substantial rehabilitation", and "target area" shall have the same meaning as in O.C.G.A. § 48-7-29.8. As used in this regulation, the terms "full-time employee" and "full-time permanent job" means a person who works a job that requires 30 or more hours per week.

(4) **Historic Rehabilitation Tax Credit for a Historic Home.** A taxpayer shall be allowed a tax credit equal to 25 percent of the

qualified rehabilitation expenditures for the certified rehabilitation of a historic home in the taxable year in which the certified rehabilitation is placed in service; except that in the case of a historic home located within a target area, an additional credit equal to 5 percent of the qualified rehabilitation expenditures shall be allowed.

(a) Credit cap. In no event shall the aggregate amount allowed for historic homes exceed the maximum aggregate limit in paragraph (5) for calendar year 2022 and \$5 million per year for calendar years 2023 and 2024. No credit shall be issued for historic homes completed on or after January 1, 2025.

(b) Credit limitation. The amount of historic rehabilitation tax credit for a historic home shall not exceed \$100,000 in any 120-month period.

(c) Preapproval for Historic Homes. Any taxpayer seeking preapproval to claim the historic rehabilitation tax credit for a historic home completed on or after January 1, 2022 must electronically submit Form IT-RHC-AP and their precertification from the Georgia Department of Community Affairs through the Georgia Tax Center. The taxpayer must estimate their credit amounts on Form IT-RHC-AP if the certified rehabilitation has not been completed. The amount of tax credit claimed on the taxpayer's applicable Georgia income tax return must be based on the actual amount of the qualified rehabilitation expenditures. If the taxpayer is preapproved for an amount that exceeds the amount that is calculated using the actual amount of the qualified rehabilitation expenditures when the return is filed, the excess preapproved amount cannot be claimed by the taxpayer, nor shall the excess preapproved amount be claimed by, reallocated to, assigned to, transferred to, or sold to any other taxpayer. If the

taxpayer is a disregarded entity, then such information should be submitted in the name of the owner of the disregarded entity.

(d) Notification. The Department will notify each taxpayer of the tax credits preapproved and allocated to such taxpayer within thirty (30) days from the date the fully completed Form IT-RHC-AP and all required supporting documentation were submitted through the Georgia Tax Center.

(e) Allocation of Tax Credit. For any taxpayer seeking preapproval to claim the tax credits for a historic home completed on or after January 1, 2022, the Commissioner shall allow the tax credit on a first-come, first-served basis. The date the fully completed Form IT-RHC-AP is electronically submitted shall be used to determine such first-come, first-served basis.

(f) Applications received on the day the maximum credit amount is reached. In the event that the credit amounts on applications received by the Commissioner for historic homes completed on or after January 1, 2022 exceed the maximum aggregate limit in paragraphs (4) and (5) of this regulation, then the tax credits shall be allocated among the taxpayers who submitted Form IT-RHC-AP on the day the maximum aggregate limit was exceeded on a pro rata basis based upon amounts otherwise allowed under O.C.G.A. § 48-7-29.8 and this regulation. Such proration shall include all applications received on the day the maximum aggregate limit was exceeded, regardless of whether it is for the credit cap year at issue or for an earlier year where the credit cap has been reached. Only credit amounts for applications received on the day the maximum aggregate limit was exceeded will be allocated on a pro rata basis.

(g) For historic homes, priority for prorated applications and

applications submitted after a calendar year cap is reached. Any application for the 2022 calendar year credit that is prorated because the 2022 calendar year credit cap is reached and any application for the 2022 calendar year credit that is submitted after the 2022 calendar year credit cap is reached shall not be approved for a subsequent calendar year whose credit cap has not been reached and shall not have priority over any applications with a later submission date. Any other application that is prorated because a calendar-year credit cap is reached and any other application that is submitted after a calendar-year credit cap is reached shall be approved for a subsequent calendar year whose credit cap has not been reached and shall have priority over any applications with a later submission date. In such cases, the taxpayer shall claim the credit in the taxable year that begins in such subsequent preapproved calendar year or as provided in paragraph (7) of this regulation. If the calendar-year credit cap for all subsequent calendar years has been reached, then the application shall be denied.

1. Example: Taxpayer submits the electronic Form IT-RHC-AP through the Georgia Tax Center on April 25, 2022 seeking preapproval to claim the 2022 historic rehabilitation tax credit for a historic home. On April 25, 2022, the 2022 calendar-year credit cap for historic homes was reached, and Taxpayer received an allocation of the 2022 historic rehabilitation tax credit on a pro rata basis. Taxpayer's preapproval application will not be approved for a subsequent calendar year and will not receive priority over applications with a later submission date.

2. Example: Taxpayer submits the electronic Form IT-RHC-AP through the Georgia Tax Center in 2023 seeking preapproval to claim the 2023 historic rehabilitation tax credit for a historic home. On the day that Taxpayer submits Form IT-RHC-AP, the 2023

calendar-year credit cap for historic homes was reached, and Taxpayer received an allocation of the 2023 historic rehabilitation tax credit on a pro rata basis. Taxpayer's preapproval application will be approved for the 2024 calendar year if the 2024 credit cap has not been reached and will receive priority over applications with a later submission date.

(h) **Claiming the Historic Rehabilitation Tax Credit for a Historic Home.** For a taxpayer to claim the historic rehabilitation tax credit for a historic home, the taxpayer must submit with the taxpayer's Georgia income tax return Form IT-RHC, the property tax bill for the year immediately before the beginning of the 24 month (or 60 month) period, the property tax bill for the year immediately after the beginning of the 24 month (or 60 month) period, and their completed final certification from the Georgia Department of Community Affairs.

(i) In the event it is determined that a taxpayer has not met all the requirements of O.C.G.A. § 48-7-29.8 and this regulation, then the credits shall not be approved or the approved credits shall be retroactively denied. The taxpayer shall file amended returns for the taxable year the credit was claimed, reducing the credit. With respect to such denied credits, tax, interest, and penalties shall be due if the credits have already been used by the taxpayer or have been sold or transferred, regardless of whether the transferee has used the credit or not.

(j) **Carry Forward.** Any unused historic rehabilitation tax credit for a historic home may be carried forward for ten years after the close of the taxable year in which the certified rehabilitation was completed.

(k) **Sale of the Historic Home.** Except as provided in

subparagraph (4)(1) of this regulation, in the event a historic rehabilitation tax credit for a historic home is claimed and allowed to the taxpayer, upon the sale or transfer of the historic home, the taxpayer shall be authorized to transfer the remaining unused amount of such historic rehabilitation tax credit to the purchaser of such historic home. If a historic home for which a certified rehabilitation has been completed by a nonprofit corporation is sold or transferred, the full amount of the credit to which the nonprofit corporation would be entitled if taxable shall be transferred to the purchaser or transferee at the time of the sale or transfer.

1. Such purchaser shall be subject to the limitations of this paragraph and O.C.G.A. § 48-7-29.8 and shall file with the purchaser's tax return a copy of the final certification from the Georgia Department of Community Affairs and a copy of the form evidencing the transfer of the tax credit.

2. Such purchaser shall be entitled to rely in good faith on the information contained in and used in connection with obtaining the final certification of the credit including, without limitation, the amount of the qualified rehabilitation expenditures.

(l) Recapture of the Historic Rehabilitation Tax Credit for a Historic Home. If an owner other than a nonprofit corporation sells a historic home within three years of receiving the credit, the seller shall recapture the credit to the Department as follows:

1. If the property is sold within one year of receiving the credit, the recapture amount will equal the lesser of the credit or the net profit of the sale;

2. If the property is sold within two years of receiving the

credit, the recapture amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or

3. If the property is sold within three years of receiving the credit, the recapture amount will equal the lesser of one-third of the credit or the net profit of the sale.

(m) Exception to Recapture Provision. The recapture provisions in subparagraph (4)(l) of this regulation shall not apply to a sale resulting from the death of the owner.

**(5) Credit cap for 2022 for Historic Homes and for Any Other Certified Structure earning \$300,000 or less.** In no event shall the aggregate amount allowed for historic homes completed on or after January 1, 2022 and any other certified structures earning \$300,000 or less, together, exceed \$5 million for calendar year 2022.

**(6) Historic Rehabilitation Tax Credit for Any Other Certified Structure.** A taxpayer shall be allowed a tax credit equal to 25 percent of the qualified rehabilitation expenditures for the certified rehabilitation of any other certified structure, other than a historic home, in the taxable year in which the certified rehabilitation is placed in service, except as provided in subparagraph (6)(j) of this regulation and paragraph (7) of this regulation.

(a) Credit limitations. For certified rehabilitations completed before January 1, 2017, the historic rehabilitation tax credit for any other certified structure shall not exceed \$300,000 in any 120-month period.

(b) For certified rehabilitations completed on or after January 1,

2017, the maximum credit for any other individual certified structure shall be \$5 million per taxable year; except that in the case of a project that creates 200 or more full-time permanent jobs or \$5 million in annual payroll within two years of the placed in service date, the maximum credit amount is \$10 million for any other individual certified structure. For purposes of this regulation, a full-time permanent job means a person who works a job that requires 30 or more hours per week.

(c) For certified rehabilitations completed on or after January 1, 2017, in no event shall more than one application for any individual certified structure be approved in any 120-month period, but a taxpayer is allowed to submit an additional electronic Form IT-RHC-AP if it is the same project. Such additional electronic Form IT-RHC-AP is subject to the requirements of this regulation and shall not be given priority over applications with an application date that is earlier than the additional preapproval application date.

(d) Credit Carry Forward. For certified rehabilitations completed before January 1, 2017, any unused historic rehabilitation tax credit for any other certified structure may be carried forward for ten years after the close of the taxable year in which the certified rehabilitation was completed. For certified rehabilitations completed on or after January 1, 2017, no unused historic rehabilitation tax credit for any other certified structure shall be allowed to the taxpayer or the transferee against succeeding years' tax liability.

(e) Credit cap for any other certified structure. For certified rehabilitations completed on or after January 1, 2017, in no event shall historic rehabilitation tax credits for any other certified structure earning more than \$300,000 in historic rehabilitation tax



credits under subparagraph (6)(b) of this regulation exceed \$25 million per calendar year for calendar years ending on or before December 31, 2022. For calendar year 2022, in no event shall historic rehabilitation tax credits for any other certified structure earning \$300,000 or less in historic rehabilitation tax credits exceed the maximum aggregate limit in paragraph (5). For calendar years beginning on or after January 1, 2023, and ending on or before December 31, 2027, in no event shall historic rehabilitation tax credits issued for any other certified structure other than a historic home, regardless of the amount of credits earned, exceed \$30 million per calendar year.

(f) Preapproval. For certified rehabilitations earning \$300,000 or less that were completed on or after January 1, 2022 and for all other certified rehabilitations completed on or after January 1, 2017, any taxpayer seeking preapproval to claim the tax credits must electronically submit Form IT-RHC-AP, including the information required by subparagraph (6)(f)1. of this regulation, and their precertification from the Georgia Department of Community Affairs through the Georgia Tax Center. For a certified rehabilitation earning \$300,000 or less that was expected to be completed in 2021 or before and that has preapproval for such year, the taxpayer is not required to request another preapproval but must complete the project within the two-year period as provided in paragraph (7) of this regulation. The taxpayer must estimate their credit amounts on Form IT-RHC-AP if the certified rehabilitation has not been completed. The amount of tax credit claimed on the taxpayer's applicable Georgia income tax return must be based on the actual amount of the qualified rehabilitation expenditures. If the taxpayer is preapproved for an amount that exceeds the amount that is calculated using the actual amount of the qualified rehabilitation expenditures when the return is filed, the excess preapproved amount cannot be claimed by the

taxpayer, nor shall the excess preapproved amount be claimed by, reallocated to, assigned to, transferred to, or sold to any other taxpayer. If the taxpayer is a disregarded entity, then such information should be submitted in the name of the owner of the disregarded entity.

1. The following information must be submitted with Form IT-RHC-AP:

(i) Documentation to show one of the following:

(I) If the certified structure was purchased by the applicant, a copy of the warranty deed indicating the applicant as the owner of the property; or

(II) If the certified structure is leased by the applicant, documentation showing that the applicant leases the property and showing that the qualified rehabilitation expenditures would not be disqualified by Internal Revenue Code Section 47(c)(2)(B), which disallows expenditures, if, on the date the rehabilitation is completed, the remaining term of the lease is less than the building's recovery period. This documentation must include a copy of the lease and documentation showing whether the property is residential rental property with a recovery period of 27.5 years or nonresidential real property with a recovery period of 39 years;

(ii) The ownership and/or membership of the applicant entity. This documentation must include information regarding each owner or member of the applicant and, if any owner or member is itself a pass-through entity, information regarding its ownership and/or membership. Such information must include the name, federal identification number, ownership percentage, whether or not they are a tax-exempt entity, and whether they control the

applicant entity;

(iii) Which entities or members of a pass-through entity intend to claim the credit and in what percentage(s);

(iv) The percentage of the subject property that will be used for non-profit purposes, if any;

(v) Whether the applicant or another entity intends to sublease the property to other entities, which entities they intend to sublease to, and if such entities are tax-exempt entities;

(vi) If the property is being leased, whether or not the owner of the property is a tax-exempt entity;

(vii) Whether or not the project qualifies for the Federal Rehabilitation Credit allowed under Internal Revenue Code Section 47; and

(viii) Any other information requested by the Department.

(g) Notification. The Department will notify each taxpayer of the tax credits preapproved and allocated to such taxpayer within thirty (30) days from the date the fully completed Form IT-RHC-AP and all required supporting documentation were submitted through the Georgia Tax Center.

(h) Allocation of Tax Credit. For any taxpayer seeking preapproval to claim the tax credits for any other certified structure, the Commissioner shall allow the tax credit on a first-come, first-served basis. The date the fully completed Form IT-RHC-AP is electronically submitted shall be used to determine such first-come, first-served basis.

(i) Applications received on the day the maximum credit amount is reached for any other certified structure. In the event that the credit amounts on applications received by the Commissioner exceed the maximum aggregate limit in subparagraph (6)(e) of this regulation, then the tax credits shall be allocated among the taxpayers who submitted Form IT-RHC-AP on the day the maximum aggregate limit was exceeded on a pro rata basis based upon amounts otherwise allowed under O.C.G.A. § 48-7-29.8 and this regulation. Such proration shall include all applications received on the day the maximum aggregate limit was exceeded, regardless of whether it is for the credit cap year at issue or for an earlier year where the credit cap has been reached. Only credit amounts for applications received on the day the maximum aggregate limit was exceeded will be allocated on a pro rata basis.

(j) For any other certified structure, priority for pro-rated applications and applications submitted after a calendar year cap is reached. Any application for the 2022 calendar year credit that is prorated because the 2022 calendar year credit cap is reached and any application for the 2022 calendar year credit that is submitted after the 2022 calendar year credit cap is reached shall not be approved for a subsequent calendar year whose credit cap has not been reached and shall not have priority over any applications with a later submission date. Any other application that is prorated because a calendar-year credit cap is reached and any application that is submitted after a calendar-year credit cap is reached shall be approved for a subsequent calendar year whose credit cap has not been reached and shall have priority over any applications with a later submission date. In such cases, the taxpayer shall claim the credit in the taxable year that begins in such subsequent preapproved calendar year or as provided in paragraph (7) of this regulation. If the calendar-year credit cap for all subsequent

calendar years has been reached, then the application shall be denied.

1. Example: Taxpayer submits the electronic Form IT-RHC-AP through the Georgia Tax Center on January 4, 2022 seeking preapproval to claim the 2022 historic rehabilitation tax credit for a certified structure other than a historic home. On January 4, 2022, the 2022 calendar year credit cap for certified structures other than historic homes was reached, and Taxpayer received an allocation of the 2022 historic rehabilitation tax credit on a pro rata basis. Taxpayer's preapproval application will not be approved for a subsequent calendar year and will not receive priority over applications with a later submission date.

2. Example: Taxpayer submits the electronic Form IT-RHC-AP through the Georgia Tax Center in 2023 seeking preapproval to claim the 2023 historic rehabilitation tax credit for a certified structure other than a historic home. On the day that Taxpayer submits the Form IT-RHC-AP, the 2023 calendar year credit cap for certified structures other than historic homes was reached, and Taxpayer received an allocation of the 2023 historic rehabilitation tax credit on a pro rata basis. Taxpayer's preapproval application will be approved for the 2024 calendar year if the 2024 credit cap has not been reached and will receive priority over applications with a later submission date.

(k) Preapproval for Calendar Year 2022 for any other certified structure earning more than \$300,000 in historic rehabilitation tax credits. Taxpayers that were prorated or denied the any other certified structure credit for a project earning more than \$300,000 because the credit cap was met for 2017, 2018, 2019, 2020, or 2021 may submit the electronic Form IT-RHC-AP for 2022 for additional credit amounts so long as it is the same project, and they

will have priority as provided in this regulation. Taxpayers that meet the requirements for any other certified structure for a credit amount of more than \$300,000 and choose to apply for the noncapped credit for any other certified structure (for a credit amount of \$300,000 or less) for 2017, 2018, 2019, 2020, or 2021 may submit an electronic Form IT-RHC-AP for 2022 for any other certified structure earning more than \$300,000 for additional credit amounts so long as it is the same project and they will have priority as provided in this regulation.

(l) Change of Ownership. If ownership of the other certified structure subsequently changes after historic rehabilitation tax credits were preapproved and allocated to the initial owners and no rehabilitation has begun, then the new owners must contact the Department to request reallocation of the preapproved credits to the new owners. Along with their request, the new owners must submit the amended precertification from the Georgia Department of Community Affairs and the information required by subparagraph (6)(f)1 of this regulation. Once the credits are reallocated to the new owners, the initial owners cannot claim, sell, or transfer the credits.

(m) Claiming the Historic Rehabilitation Tax Credit for Any Other Certified Structure. A taxpayer claiming the tax credits under subparagraph (6)(a) of this regulation shall attach to its Georgia income tax return, for each year the credit is claimed on Form IT-RHC, the property tax bill for the year immediately before the beginning of the 24 month (or 60 month) period, the property tax bill for the year immediately after the beginning of the 24 month (or 60 month) period, and their completed final certification from the Georgia Department of Community Affairs. A taxpayer claiming the tax credits under subparagraph (6)(b) of this regulation must attach to its Georgia income tax return, for

each year the credit is claimed, an approved Form IT-RHC-AP, Form IT-RHC, the property tax bill for the year immediately before the beginning of the 24 month (or 60 month) period, the property tax bill for the year immediately after the beginning of the 24 month (or 60 month) period, and their completed final certification from the Georgia Department of Community Affairs.

(n) In the event it is determined that the taxpayer has not met all the requirements of O.C.G.A. § 48-7-29.8 and this regulation, then the amount of credits shall not be approved or the approved credits shall be retroactively denied. The taxpayer shall file amended returns for the taxable year the credit was claimed, reducing the credit. With respect to such denied credits, tax, interest, and penalties shall be due if the credits have already been used by the taxpayer or have been sold or transferred, regardless of whether the transferee has used the credit or not.

(o) Pass-through entities. When the taxpayer is a pass-through entity and has no income tax liability of its own, the historic rehabilitation tax credit for any other certified structure shall be allocated to the partners, members, or shareholders of that entity in accordance with the provisions of any agreement among the partners, members, or shareholders of that entity and without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified structure, provided that the entity or person that claims the credit must be subject to Georgia tax. The credit forms will initially be filed with the tax return of the pass-through entity to establish the amount of the credit available for pass through. The credit will then pass through to its shareholders, members, or partners to be applied against the tax liability on their income tax returns. The credits are available for use as a credit by the shareholders, members, or partners for their tax year in which the income tax year of the pass-through

entity ends. For example: A partnership earns the credit for its tax year ending January 31, 2017. The partnership passes the credit to a calendar-year partner. The credit is available for use by the individual partner beginning with the calendar 2017 tax year.

(p) Selling or Transferring the Historic Rehabilitation Tax Credit for Any Other Certified Structure. The taxpayer may sell or transfer in whole or in part any historic rehabilitation tax credit for any other certified structure earned under subparagraph (6)(b) of this regulation that was previously claimed but not used by such taxpayer against its income tax to another Georgia taxpayer subject to the following conditions:

1. The taxpayer may only make a one-time sale or transfer of historic rehabilitation tax credits for any other certified structure earned in each taxable year. However, the sale or transfer may involve more than one transferee. For example, taxpayer 1 earns a \$100,000 credit in year 1. In year 2, they sell \$75,000 of the credit to taxpayer 2. In year 3, they are allowed to sell the remaining \$25,000 of the credit to taxpayer 3. However, both taxpayer 2 and taxpayer 3 are not allowed to resell the credit since the credit can only be sold once.

2. The historic rehabilitation tax credits for any other certified structure may be transferred before the tax return is filed by the taxpayer, provided the historic rehabilitation tax credits have been earned. However, the amount transferred cannot exceed the amount of the credit which will be claimed and not used on the income tax return of the transferor. The credit is considered earned when the credit has been preapproved by the Department, the certified rehabilitation has been completed, and the taxpayer has received their completed final certification from the Georgia Department of Community Affairs. Preapproval of the credits by



itself does not qualify as earning the credit.

3. The taxpayer must file Form IT-TRANS, "Notice of Tax Credit Transfer," with the Department of Revenue within 30 days of the transfer or sale of the historic rehabilitation tax credit for any other certified structure. Form IT-TRANS must be submitted electronically to the Department of Revenue through the Georgia Tax Center, or alternatively, as provided in subparagraph (6)(p)3.(i) of this regulation. The Department of Revenue will not process any Form IT-TRANS submitted or filed in any other manner. If the taxpayer is a disregarded entity, then Form IT-TRANS should be filed in the name of the owner of the disregarded entity, but Form IT-RHC should be in the name of the disregarded entity and attached to the owner's Georgia income tax return.

(i) The web-based portal on the Georgia Tax Center. The taxpayer may provide selective information to a representative for the purpose of allowing the representative to submit Form IT-TRANS on their behalf on the Georgia Tax Center outside of a login. The provision of such information shall authorize the representative to submit such Form IT-TRANS. The representative must provide all information required by the web-based portal on the Georgia Tax Center to submit Form IT-TRANS.

4. The taxpayer must provide all required historic rehabilitation tax credit for any other certified structure detail and transfer information to the Department of Revenue. Failure to do so will result in the historic rehabilitation tax credit for any other certified structure being disallowed until the taxpayer complies with such requirements.

5. The carryforward period of the historic rehabilitation tax

credit for any other certified structure for the transferee will be the same as it was for the taxpayer. For certified rehabilitations completed on or after January 1, 2017, no unused historic rehabilitation tax credit for any other certified structure shall be allowed to be carried forward.

(i) Example: Taxpayer sells the historic rehabilitation tax credit for any other certified structure on March 15, 2018. This credit is from a certified rehabilitation that received preapproval from the Department for calendar year 2017 and was placed in service in the taxpayer's calendar 2017 tax year. The transferee is a calendar-year taxpayer. The credit may be claimed by the transferee on the calendar 2017 tax year return. This credit cannot be carried forward by the taxpayer or the transferee. This credit can only be utilized in tax year 2017.

6. A transferee shall have only such rights to claim and use the historic rehabilitation tax credit for any other certified structure that were available to the taxpayer at the time of the transfer. Thus, a transferee shall not have the right to subsequently transfer such credit since that right has been utilized by the transferor.

7. Only the taxpayer who earned the historic rehabilitation tax credit for any other certified structure and no subsequent good faith transferee shall be responsible in the event of a recapture, reduction, disallowance, or other failure related to such credit, provided the credit was properly claimed by the taxpayer.

(q) How to Sell or Transfer the Historic Rehabilitation Tax Credit for Any Other Certified Structure. The taxpayer may sell or transfer the historic rehabilitation tax credit for any other certified structure directly to a Georgia taxpayer (or multiple Georgia taxpayers, as provided in subparagraph (6)(p)1. of this rule). A

pass-through entity may make an election to sell or transfer the unused historic rehabilitation tax credit for any other certified structure earned in a taxable year at the entity level. If the pass-through entity makes the election to sell the historic rehabilitation tax credit for any other certified structure at the entity level, the credit does not pass through to the shareholders, members, or partners. In all cases, the effect of the sale of the credit on the income of the seller and buyer of the credit will be the same as provided in the Internal Revenue Code.

1. **Pass-Through Entity.** The taxpayer may be structured as a pass-through entity. If a pass-through entity does not make an election to sell or transfer the tax credit at the entity level as provided in subparagraph (6)(q) of this rule, the tax credit will pass through to the shareholders, partners, or members of the entity based on any agreement among the partners, members, or shareholders of that entity without regard to the ownership interest of the partners, members, or shareholders in the rehabilitated certified structure, provided that the entity or person that claims the credit must be subject to Georgia tax. The shareholders, members, or partners may then sell their respective historic rehabilitation tax credit for any other certified structure to a Georgia taxpayer.

2. **Transferee Pass-Through Entity.** The taxpayer or its shareholders, members, or partners may sell or transfer the tax credit to a pass-through entity. If the pass-through entity has no income tax liability of its own, it may then pass the credit through to its shareholders, members, or partners based on any agreement among the partners, members, or shareholders of that entity without regard to the ownership interest of the partners, members, or shareholders in the pass-through entity, provided that the entity or person that claims the credit must be subject to Georgia tax. For example, if a calendar-year partnership buys the credit earned by a

taxpayer in calendar year 2017 and the credit was preapproved by the Department for calendar year 2017, then all the partners receiving the credit must have been a partner in the partnership no later than the end of the 2017 tax year of the partnership. The credits are available for use as a credit by the shareholders, members, or partners for their tax year in which the income tax year of the pass-through entity ends. For example, a taxpayer that received preapproval for calendar year 2017 and placed in service the certified rehabilitation for any other certified structure in July of 2017 sells the credit to a pass-through entity in August of 2017, and the generating taxpayer claims the credit on their calendar year 2017 income tax return. The pass-through entity is entitled to use the credits on its calendar year 2017 tax return. The pass-through entity has two partners. The first partner is a calendar-year partner. This credit can only be utilized on the calendar tax year 2017 return and cannot be carried forward by the partner. The second partner is a corporation with a fiscal year ending June 30, 2018. This credit can only be utilized on the fiscal year ending June 30, 2018 and cannot be carried forward by the partner.

3. The credits are available for use by the transferee, provided the time has not expired for filing a claim for refund of a tax or fee erroneously or illegally assessed and collected under O.C.G.A. § 48-2-35 in the transferee's tax year in which the income tax year of the taxpayer who claims the historic rehabilitation tax credit for any other certified structure for the certified rehabilitation associated with the credit being sold ends.

(i) Example: Taxpayer sells the historic rehabilitation tax credit for any other certified structure on March 15, 2018. This credit is from a certified rehabilitation that received preapproval from the Department for calendar year 2017 and was placed in service on or after January 1, 2017 and within the generating taxpayer's fiscal

tax year ending June 30, 2017. The transferee is a calendar-year taxpayer. The credit may be claimed by the transferee on the calendar 2017 tax year return. This credit cannot be carried forward by the taxpayer or the transferee. This credit can only be utilized in tax year 2017 by the transferee.

(ii) Example: Taxpayer sells the historic rehabilitation tax credit for any other certified structure on March 15, 2018. This credit is from a certified rehabilitation that received preapproval from the Department for calendar year 2017 (on their Form IT-RHC-AP, the completion calendar year was 2017 and the credit was awarded for such year) and was placed in service on December 31, 2019. As provided in paragraph (7), the taxpayer chooses to claim the credit on their tax year ending June 30, 2020 tax return. The transferee is a calendar-year taxpayer. The credit must be claimed by the transferee on the calendar 2020 tax year return. This credit cannot be carried forward by the taxpayer or the transferee. This credit can only be utilized on the transferee's calendar 2020 tax year return.

(r) Required reporting. Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, the Department shall furnish a report to the chairperson of the House Committee on Ways and Means and the chairperson of the Senate Finance Committee by June 30 of each year. Such report shall contain the total sales tax collected in the prior calendar year, the average number of full-time employees at the certified structure, and the total value of credits claimed for each taxpayer claiming credits under subparagraph (6)(b).

1. For certified rehabilitations completed on or after January 1, 2017, any taxpayer that generates and claims the tax credit under subparagraph (6)(b) of this regulation must electronically report to the Department through the Georgia Tax Center, using Form IT-

RHC-RPT, the monthly average full-time employees employed at the certified structure, the total sales tax collected, and the credits claimed. Such reports must be submitted to the Department for five calendar years following the calendar year in which the credit is claimed by the taxpayer. Such report shall be due by the February 28th date that follows the calendar year that is being reported.

2. For purposes of this subparagraph, in the event that the taxpayer that generates and claims the tax credit under subparagraph (6)(b) of this regulation leases such other certified structure, all total sales tax receipts from the certified structure and all total full-time employees at the certified structure shall be aggregated.

3. For certified rehabilitations completed on or after January 1, 2017, where the maximum credit amount exceeds \$5 million for any other individual certified structure, the taxpayer shall report using Form IT-RHC-RPT whether or not they created 200 or more full-time permanent jobs or had \$5 million in annual payroll within two years of the placed-in-service date. Such report shall be due no later than 60 days following the end of such two-year period.

**(7) Completion of the Project for Preapproved Projects.**

(a) For certified rehabilitations of any other certified structure under subparagraph (6)(b) of this regulation completed on or after January 1, 2017 and historic homes preapproved on or after January 1, 2022, the project must be placed in service within two years after the completion calendar year listed in the taxpayer's Form IT-RHC-AP (the year for which the credit was originally reserved). If the taxpayer has a fiscal year, such completion calendar year shall, for purposes of this paragraph, be the tax year that begins in such completion calendar year. If this requirement is

met, the taxpayer claims the credit in the year listed in the taxpayer's preapproval letter from the Department of Revenue; or the taxpayer may claim the credit in the tax year in which the project is placed in service, provided the project is placed in service within two years after the completion calendar year listed in their Form IT-RHC-AP and provided such placed-in-service year ends later than the end of the year listed in the taxpayer's preapproval letter from the Department of Revenue. If the project is not placed in service within such time period, the credit is lost and cannot be claimed, sold, or transferred unless the taxpayer reapplies for the credit and receives preapproval for such other time period. Unless the Department has evidence to the contrary, the date of completion listed in the final certification authorized by the Georgia Department of Community Affairs shall be used to determine when the project was placed in service. This paragraph shall apply even if the taxpayer is given priority under subparagraph (6)(j) of this regulation and is preapproved for a subsequent calendar year.

1. Example 1. The taxpayer lists 2017 in their Form IT-RHC-AP as the completion calendar year and is preapproved to claim the credit for 2017. The taxpayer is a calendar-year taxpayer. The taxpayer must place the project in service on or before December 31, 2019. This taxpayer places the project in service on November 15, 2019. The taxpayer may claim the credit on their taxable year end December 31, 2017 Georgia income tax return or their taxable year end December 31, 2019 Georgia income tax return.

2. Example 2. The taxpayer lists 2018 in their Form IT-RHC-AP as the completion calendar year and is preapproved to claim the credit for 2018. The taxpayer is a fiscal year filer with a February 28 taxable year end. The taxpayer must place the project in service on or before February 28, 2021. This taxpayer places the

project in service on March 31, 2019. The taxpayer may claim the credit on their taxable year end February 28, 2019 Georgia income tax return or their taxable year end February 28, 2020 Georgia income tax return.

(b) The following examples illustrate how the credit is claimed if the taxpayer is preapproved for the credit in a subsequent year, as provided by subparagraph (6)(j):

1. Example 3. The taxpayer lists 2018 in their Form IT-RHC-AP as the completion calendar year and is preapproved to claim the credit for 2019. The taxpayer is a calendar-year taxpayer. This taxpayer places the project in service on November 15, 2020. The taxpayer may claim the credit on their taxable year end December 31, 2019 Georgia income tax return or their taxable year end December 31, 2020 Georgia income tax return.

2. Example 4. The taxpayer lists 2018 in their Form IT-RHC-AP as the completion calendar year and is preapproved to claim the credit for 2019. The taxpayer is a fiscal year filer with a February 28 taxable year end. This taxpayer places the project in service on January 31, 2021. The taxpayer may claim the credit on their taxable year end February 28, 2020 Georgia income tax return or their taxable year end February 28, 2021 Georgia income tax return.

(c) For historic homes estimated to be completed before January 1, 2022 and which are not actually completed before January 1, 2022, the project must be placed in service within two years after the estimated completion year listed on the precertification from the Georgia Department of Community Affairs. If this two-year requirement is met, the taxpayer claims the credit in the estimated completion year listed on the



precertification from the Georgia Department of Community Affairs, and the taxpayer does not need to apply for preapproval for the historic home. If the project is not placed in service within such time period, the credit is lost and cannot be claimed, sold, or transferred unless the taxpayer reapplies for the credit and receives preapproval for such other time period. Unless the Department has evidence to the contrary, the date of completion listed in the final certification authorized by the Georgia Department of Community Affairs shall be used to determine when the project was placed in service.

(d) A project that is delayed beyond two years may submit an application for a later year, subject to all the other requirements of this regulation.

(8) **Qualified Rehabilitation Expenditures Only Counted Once.** Qualified rehabilitation expenditures can only be counted once in determining the amount of the tax credit available, and more than one entity may not utilize the historic rehabilitation tax credit for the same qualified expenditures.

(9) **Sunset Date.** O.C.G.A. § 48-7-29.8, the historic rehabilitation tax credit, shall be repealed on December 31, 2027. As such, projects completed on or after January 1, 2028 are not eligible except as allowed by paragraph (7) of this regulation.

(10) **Effective Date.** This regulation shall be applicable to certified rehabilitations completed on or after January 1, 2017, regardless of when the certified rehabilitation was started.

Authority: O.C.G.A. §§ 48-2-12 and 48-7-29.8.