2024 Schedule HR-5 Instructions

Purpose of Schedule HR-5

Schedule HR-5 is used to claim the supplement to the federal historic rehabilitation tax when the credit is required to be claimed over five years and the credit is transferred before the end of that five year period.

Note: Definitions not found in these instructions can be found at sec. 71.28(6), Wis. Stats., and sec. 41 of the Internal Revenue Code (IRC) and the related Treasury Regulations.

Timing for Calculating and Claiming the Credit

Calculating the credit

- **By default,** the credit is calculated in the year a rehabilitated property is placed in service.
- **By election,** the credit is calculated in the year the Qualified Rehabilitation Expenditures (QREs) are paid.

Claiming the credit

When the credit is calculated using Qualified Rehabilitation Expenditures (QREs) paid or incurred before December 31, 2017, or the transition rule applies, 100% of the credit is claim in the year calculated. Schedule HR is used to claim the credit and is attached to the Wisconsin tax return in the year calculated.

When the credit is calculated using Qualified Rehabilitation Expenditures (QREs) paid or incurred after December 31, 2017, and the transition rule does not apply, the credit must be claimed over a 5 year period. Schedule HR is used to report 20% of the calculated credit and is attached to the Wisconsin tax return beginning with the year the credit is calculated and for the following four years unless the credit is transferred.

When a credit subject to the 5 year spread is transferred before 100% of the credit has been claimed (before filing Schedule HR for the year the credit is calculated and the following 4 years), any amount of the transferred credit not yet claimed is reported on Form HR-5. This removes a claimant's requirement to file a Schedule HR for a credit that is no longer owned.

The transitional rule applies to a rehabilitated building when (1) the claimant is the owner for the entire period after December 31, 2017, **and (2)** the 24-month or 60-month measurement period used to determine if a building is substantially rehabilitated must have begun no later than June 20, 2018.

Important limitations

- If the QREs also produce a federal historic rehabilitation credit, the credit cannot be claimed in a different taxable year than federal historic rehabilitation credit.
- A transferred credit is first available to be claimed by the purchaser for the taxable year in which it is purchased or transferred.

Wisconsin Agencies Administering the Credit

- The Wisconsin Historical Society administers the rehabilitation requirements of the historic preservation program. For more information, visit the Historical Society's website at: wisconsinhistory.org/Content.aspx?dsNav=N: 1189, write to the Division of Historic Preservation, Wisconsin Historical Society, 816 State Street, Madison, WI 53706-1417, or call (608) 264-6490.
- The Wisconsin Economic Development Corporation (WEDC) certifies the maximum amount of supplement to the federal historic rehabilitation credits that may be awarded. For more information, contact WEDC at: wedc.org/inside-wedc/contact-us/#regional or call 1-855-469-4249.
- The Department of Revenue (DOR) administers claiming and using historic tax credits on tax returns and certifies credit transfers. For more information, visit the department's website at: revenue.wi.gov/Pages/FAQS/pcs-historic-transfer.aspx, email us at: DORFranchise@wisconsin.gov, or call (608) 266-2772.

Qualifications to Claim the Credit

To qualify for the supplement to the federal historic rehabilitation tax credit, the following requirements must be met:

- The claimant must own (or, in certain cases, lease) property being rehabilitated.
- The rehabilitation project must be approved by the National Park Service or Wisconsin Historical Society and design must adhere to the "Secretary of the Interior's Standards for Rehabilitation."
- The Wisconsin Economic Development Corporation (WEDC) must have been certified the project.
- The QREs must exceed $50,000.
- The rehabilitated property is, listed on the national register of historic places in Wisconsin, or the state register of historic places, or is determined by the state historical society to be eligible for listing on the national register of historic places in Wisconsin or the state register of historic places, or is located in a historic district that is listed in the national register of historic places in Wisconsin or the state register of historic places and is certified by the state historic preservation officer as being of historic significance to the district, or is an otherwise eligible property certified by the state historic preservation officer as contributing to the historic significance of the property.
- For certified historic structures, qualified rehabilitation expenditures means that the building must be depreciable property that is either nonresidential rental property, residential rental property, or real property with a class life of more than 12.5 years. If only part of the building qualifies only the rehabilitation expenditures allocable to the qualified portion may be used to figure the credit.
- For a qualified rehabilitated building, the building must have been placed in service prior to the rehabilitation and substantially rehabilitated after. See sec. 41, IRC, for the definition of substantially rehabilitated.
- For certified historic structures, a building is considered to be substantially rehabilitated if QREs incurred during the within a 24-month (or, for phased rehabilitation projects, a 60-month) measurement period selected by the claimant exceeds the greater of $5,000 or the rehabilitated property's adjusted basis (as defined for the substantially rehabilitation test under sec. IRC 41, IRC).

Date a Project Is Begun

The date a project is "begun" is the date on which the physical work of rehabilitation begins. The physical work of rehabilitation does not include preliminary activities such as planning, designing, securing financing, exploring, researching, developing plans and specifications, or stabilizing a building to prevent deterioration, such as placing boards over broken windows.

The Basis of the Rehabilitated Property

When the supplement to the federal historic rehabilitation tax credit is claimed, the qualified rehabilitation expenditures must be added to the basis of the building and depreciated using the straight-line method. In addition, the credit amount is subtracted from the basis of the building.

Carryover of Unused Credits

The historic rehabilitation credits are nonrefundable. Any unused credits may be carried forward for 15 years. If there is a reorganization of a corporation claiming historic rehabilitation credits, the limitations provided by sec. 383, IRC, may apply to the carryover of any unused credits.

Recovery of Credits

In cases where the Wisconsin Historical Society later determines that the claimant hasn't complied with all of the requirements for the state historic rehabilitation credit, DOR may recover all or a portion of the credit.
If DOR adjusts or disallows, in whole or in part, a credit that has been transferred, only the person who originally transferred the credit to another person is liable to repay the adjusted or disallowed amount.

If the same qualified rehabilitation expenditures are used to claim the federal rehabilitation tax credit and Wisconsin supplement to the federal historic rehabilitation tax credit, and the federal credit is required to be repaid, the Wisconsin credit must also be repaid.

Specific Line Instructions

Section A – Claimant Information

Lines (2) and (7) – Identifying number. Only the last four digits are required.

If the claimant is:

- A corporation or a single member LLCs that is not disregarded use the federal employee identification number (FEIN).
- An Individual use the social security number.
- A sole member of a disregarded entity otherwise eligible to claim the credit use the sole member's identifying number on line (2). Check the line (6) box and enter the disregarded entity's FEIN on line (7). If the disregarded entity does not have a FEIN, enter NONE.

Lines (5) and (9) - Contact information

The department will use this information if additional information is required.

A claimant may authorize a third party designee to discuss credit related information with the department by completing lines (8) and (9). However, a Power of Attorney may still be needed.

- A Power of Attorney (Form A-222) executed by the taxpayer is required in order for the taxpayer's representative to perform certain acts on behalf of the taxpayer and to receive and inspect certain tax information, including receiving the Notice of Certification letter. The form is available at revenue.wi.gov/DORForms/a-222.pdf.
- As an alternative to appointing a Power of Attorney, you may designate a third party to discuss the processing of Form HR-T. **Note:** The third-party designee cannot receive the Notice of Certification letter on behalf of the taxpayer. If you want to allow another person you choose to discuss your Form HR-T with the Department of Revenue, check the box. If you check the box, you are authorizing the department to discuss with the designee any questions that may arise, and the designee to provide additional information to the department.

Section B – The Rehabilitated Property

Line (1) - The Project Name

The national and state registers of historic properties often include an identifying name that may change as a result of the rehabilitation. Enter the name as it that appears after the rehabilitation.

Lines (2) and (3) – The Project Address

A rehabilitated property may consist of multiple addresses, enter the address identified on the WEDC contract.

Section C – Credit Information

Line (1) – The total credit being claimed

Lines (1a) and (1b) – Fiduciaries Only

- Line 1(a) – Prorate the credit from line 1 between the entity and its beneficiaries in proportion to the income allocable to each. Show the beneficiaries part of the credit on line 1a. Show the credit for each beneficiary on Schedule 2K-1.
- Line 1(b) – Subtract line 1a from line 1. This is the estate's or trust's portion of the credit.

Line (2) – The claimed credit

- There are several ways a claimant may become the owner a credit. Check all that apply to the sum of credits being claimed on line (1).

Line (3) – Claimant is owner of the rehabilitated property

When a C-corporation or individual owns a rehabilitated property subject to the 5 year claim requirement there are three scenarios a Schedule HR-5 is used to claim the credit.

- The credit is calculated and transferred in the current year – use Lines 3(a) to 3(k).

- The credit being transferred was calculated and claimed in one of the previous four years – use Lines 3(l) to 3(o).
- The credit being transferred is the combination of the two scenarios – Line 3(p) = line 3(k) plus line 3(o).

Line 3(a) – The Wisconsin Economic Development Corporation is required to certify a historic rehabilitation project as eligible for the Wisconsin supplement to the federal rehabilitation credit. Once eligibility is approved, WEDC and the property owner sign a contract. Enter the number that appears at the upper right corner of the applicable contract. If the property owner is claiming and transferring credits from multiple contracts complete multiple Schedule HR-5.

Line 3(b) – Enter the adjusted basis of the historic property prior to incurring Qualified Rehabilitation Expenses (QREs)

Lines 3(c) and 3(d) – Check the box for the credit associated with WEDC contract on line 3(a). See *Calculating, Claiming and Transferring the Credit* on page 1 of the instructions.

Line 3(e) – The adjusted basis for the substantially rehabilitation test is the sum of the purchase price and the eligible expenditures that are of the nature to be capitalized rather than expensed, even if those expenditures have not yet been capitalized.

Lines 3(f) and 3(g) – Enter the beginning and ending date of the measuring period used for the substantially rehabilitated test.

- The end date of the measuring period must occur in the same tax year the rehabilitated property is placed in service.
- The total QREs used to calculate the credit are not limited to those incurred during the measuring period.
- The measuring period does not apply if the election is made to claim the credit in the year the expenditures are incurred.
- See the sec. 41, IRC, and related Treasury Regulations for additional information about the measuring period.

Lines 3(h) to 3(j) – Enter the amounts as described. Line 3(j) is the total calculated credit, not the amount being claimed due to a current year transfer. A claimant may transfer and claim all or part of a calculated credit.

Line 3(k) – Enter the amount of the credit calculated in the current year that is being transferred in the current year and therefore required to be claimed. Enter the applicable amounts on lines 3(k)(i) to 3(k)(v).

Line 3(l) – If the claimant is transferring a credit that was calculated in one of the prior four years (but not transferred until the current year), enter the WEDC contract number associated with that credit.

Line 3(m) – Enter the total credit amount associated with the WEDC contract on line 3(l). This amount is located on line 3 of the related Schedule HR previously filed with the claimant's Wisconsin income tax return.

Line 3(o) – Enter the amount of line 3(m) being transferred in the current year that was not previously claimed.

Line 4 - Historic rehabilitation credit calculated using QREs allocated from a pass-through entity

If the claimed credit was calculated using QREs allocated from an estate or trust, partnership or LLC treated as a partnership, or tax-option (S) corporation, complete lines 4(a) to 4(j) as indicated.

When a pass-through entity is the owner of the rehabilitated property subject to the 5 year claim requirement the eligible costs incurred by the pass-through entity are allocated to the owners using the ownership interest percentage or, a special partnership allocation percentage if indicated in the partnership agreement. Once the eligible costs are allocated, the owner as the claimant determines the method for calculating and claiming the credit.

- By default, the allocated costs are accumulated until the rehabilitated property is placed in service at which time the credit is calculated.
- Alternatively, the claimant may elect to calculate the credit in the year the eligible costs are incurred. This election is made at the owner level and there is no requirement all owners must make the same election.

Line 5 - Historic rehabilitation credit received in a previous transfer

If the claimant became the owner of the claimed credit as the transferee in a previous transfer, complete lines 5(a) to 5(e) as indicated.

Line 6 – Total credits from additional Schedules HR-5

If the claimed credit was obtained from more than one WEDC contract reported on Lines 3 or 4 or from multiple transfers reported on Line 5 additional Schedule HR-5s are completed. If applicable enter the total of all additional Schedule HR-5s.

Required Attachments

1. Include the final certification of completed work from the National Park Service

- o For properties not yet listed in the National Register of Historic Places, include a copy of the signed letter from the National Park Service certifying that the completed rehabilitation meets the "Secretary of the Interior's Standards for Rehabilitation." If you haven't received the final certification by the time the tax return is filed, include a copy of the "Historic Preservation Certification Application (Part 2 - Description of Rehabilitation)."
- o Include a copy of the final certification of completed work to the first income or franchise tax return filed after receipt of the certification along with an explanation of the amount and the years in which the credit was claimed. If the credit is passed through from a partnership, LLC treated as a partnership, tax- option (S) corporation, estate, or trust, include a copy of your Schedule 3K-1, 5K-1, or 2K-1 instead of the final certification.
- o If the credit of a partnership or LLC treated as a partnership is allocated as provided in a written agreement, the partnership or LLC must also attach a copy of the agreement to its partnership return (Wisconsin Form 3), and each partner or member receiving the credit must attach a copy of the agreement to the return on which they claim the credit.

2. A copy of the certification of eligibility issued by the Wisconsin Economic Development Corporation.
3. If you are claiming a carryover of the supplement to the federal historic rehabilitation credit from a prior taxable year, include Schedule CF with your tax return.

Transfer of the Supplement to the Federal Historic Rehabilitation Tax Credit

For taxable years beginning on or after January 1, 2014, any person, including a nonprofit entity described in section 501(c)(3) of the Internal Revenue Code, may sell or otherwise transfer the credit, in whole or in part, to another person who is subject to the taxes imposed under secs. 71.02, 71.08, 71.23, or 71.43, Wis. Stats., if the person notifies the Department of Revenue (DOR) of the transfer, and submits with the notification a copy of the transfer documents, and DOR certifies ownership of the credit with each transfer.

The purchaser can first use the credit in the tax year the purchase is completed. For example, a tax credit from the 2020 tax year is purchased in 2024. The credit can be used by the purchaser in tax year 2024 or later. The purchaser cannot amend their tax return to use the credit in 2020, 2021, 2022, or 2023.

If DOR adjusts or disallows, in whole or in part, a credit that has been transferred, only the person who originally transferred the credit to another person is liable to repay the adjusted or disallowed amount.

Credit Certification

No person may claim the credit without first being certified by the Wisconsin Economic Development Corporation (WEDC) and including a copy of the certification with their return. WEDC may certify a person to claim the credit if WEDC determines that the person is conducting an eligible activity. For certification purposes, the claimant shall provide to WEDC all the following:

1. Evidence that the rehabilitation was recommended by the State Historic Preservation Officer for approval by the Secretary of the Interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for construction, began and that the rehabilitation was approved by the State Historic Preservation Officer.
2. Evidence that the taxpayer obtained written certification from the State Historic Preservation Officer that:

- o The property is listed on the National Register of Historic Places in Wisconsin or the State Register of Historic Places, or is determined by the State Historical Society to be eligible for listing on the National Register of Historic Places in Wisconsin or the State Register of Historic Places, or is located in a historic district that is listed in the National Register of Historic Places in Wisconsin or the State Register of Historic Places and is certified by the State Historic Preservation Officer as being of historic significance to the district, or is an outbuilding of an otherwise eligible property certified by the State Historic Preservation Officer as contributing to the historic significance of the property.
- o The proposed preservation or rehabilitation plan complies with standards promulgated under sec. 44.02 (24), Wis. Stats., and the completed preservation or rehabilitation substantially complies with the proposed plan.
- o The costs are not incurred to acquire any building or interest in a building or to enlarge an existing building.
- o The costs were not incurred before the proposed preservation or rehabilitation plan was approved.

Carryforward of Transferred Credits

The carryforward period for credits purchased will continue to be the remaining carryforward period of the original holder of the credits. For example, if a claimant purchases a supplement to the federal historic rehabilitation tax credit with a remaining credit carryforward of 8 years at the time of purchase, the purchaser will also have an 8 year credit carryforward.

Tax Issues

The entity transferring the tax credit will be required to recognize a capital gain on the sale of the credit equal to the difference between the basis of the tax credit, which would be zero unless the seller previously purchased the tax credit for consideration, and the fair market value of consideration received for the credit. The character of the capital gain as either short-term or long-term is determined based on the amount of time between the date the seller made the qualifying investment and the date the credit is transferred. If the time period is more than one year, it is a long-term capital gain; if the time period is one year or less, it is a short-term capital gain.

The entity purchasing the tax credit will recognize capital gain income when the credit is used to offset a Wisconsin income tax liability. The capital gain recognized is equal to the difference between the purchaser's basis in the tax credit, which is the fair market value of consideration paid for the tax credit and any transaction costs incurred to acquire the tax credit, and the amount of Wisconsin income tax liability satisfied by use of the tax credit. The character of the capital gain as either short-term or long-term is determined based on the amount of time between the date the purchaser acquired the tax credit and the date the credit is used to offset the purchaser's Wisconsin income tax liability. If the time period is more than one year, it is a long-term capital gain; if the time period is one year or less, it is a short-term capital gain. For purposes of determining when the holding period commences, the date the seller made the qualified investment means the date the property is placed into service. For example, if a taxpayer placed qualified property into service on September 16, 2022, long-term capital gain treatment would apply beginning September 17, 2023.

Additional Information

For more information, you may:

- Access common questions at: Transfer of Supplement to the Federal Historic Rehabilitation Credit
- Email your question to: DORFranchise@wisconsin.gov
- Call (608) 266-2772 [TTY: Call the Wisconsin Telecommunications Relay System at 711, if no answer, dial 1-800-947-3529]
- Send a FAX to (608) 267-0834
- Write to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 3-107, PO Box 8906, Madison, WI 53708-8906.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of the revised date: Chapter 71 Wis. Stats.