



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Senate Bill 10

Senate Amendments 1 and 2

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SENATE BILL 10

Under *current law*, a person who owns an income-producing historic building may, subject to certain standards and approvals, claim a federal income tax credit equal to 20% of certain costs to rehabilitate the building. A taxpayer eligible for the federal credit may also claim a state supplement to the federal credit in the form of a state income or franchise tax credit equal to 5% of certain rehabilitation costs. **2009 Senate Bill 10** would modify the state supplement to the federal historic rehabilitation tax credit, including the following changes:

- Modify the timing of the approval process related to construction for which the state supplemental credit may be claimed. Under current law, rehabilitation must be approved by the U.S. Secretary of the Interior prior to commencement of construction in order for a project to be eligible for the state supplemental credit. Senate Bill 10 would allow the credit to be claimed if rehabilitation was recommended by the state historic preservation officer prior to construction and later approved by the Secretary of the Interior.
- Allocate the state supplemental credit by agreement among partners or members of partnerships, limited liability corporations (LLCs), and tax-option corporations. Under current law, the credit is allocated in proportion to the share of ownership of each partner or member.
- Requires a taxpayer to file an election form with the Department of Revenue (DOR) if the taxpayer elects to claim the state supplemental credit based on expenditures, as incurred, rather than upon project completion.
- Allow DOR to disallow credits for a four-year period of time beginning with notice to DOR from the State Historical Society that a taxpayer claimed a credit for non-qualified

expenditures. Generally, s. 71.77 (2), Stats., limits disallowance of tax credits by DOR to a four-year period from the date the tax return was filed.

Under the bill, the modifications to the state supplement to the federal historic rehabilitation credit would first apply to property placed in service on or after June 30, 2008.

SENATE AMENDMENT 1

Senate Amendment 1 makes a technical correction to complete the deletion of statutory language related to the allocation of the state supplemental credit by partners or members of partnerships, LLCs, and tax-option corporations.

SENATE AMENDMENT 2

Senate Amendment 2 clarifies that allocation of the state supplemental credit by agreement is permissive rather than mandatory and that allocation in proportion to ownership share remains an option. The amendment also prescribes the process by which partnerships or LLCs may elect to allocate the state supplemental credit as it applies to property placed in service after June 29, 2008 and before January 1, 2009. Under Senate Amendment 2, the credit attributable to such property may be allocated to partners or members for a taxable year of the partnership or LLC that ends after June 29, 2008 and before January 1, 2010.

LEGISLATIVE HISTORY

Senate Amendment 1 was introduced by Senator Lassa. Senate Amendment 2 was introduced by the Senate Committee on Economic Development. The Senate Committee on Economic Development recommended adoption of Senate Amendments 1 and 2, and passage of Senate Bill 10, as amended, by votes of Ayes, 7; Noes, 0.

SG:ksm