

June 30, 2009

## **Addendum to Guidelines for Implementation of Section 6, 2009 House Bill 2365 Amendments to K.S.A. 79-32,211**

Section 6 of 2009 House Bill 2365 amended K.S.A. 79-32,211, the provisions of the Kansas State Rehabilitation Tax Credit Program, by adding the following sentence: "In no event shall the total amount of credits allowed under this section exceed \$3,750,000 for fiscal years 2010 and 2011." In order to implement this new cap on allowance of state historical rehabilitation tax credits for fiscal years 2010 (July 1, 2009-June 30, 2010) and 2011 (July 1, 2010-June 30, 2011), the following guidelines will apply.

1. Tax credit certificates issued by the Kansas Historical Society, or any certificates of transfer of such credits issued by the Kansas Historical Society, with respect to qualified historic rehabilitation projects that have been placed in service by June 15, 2009 and all written applications, forms and other documentation needed for issuance of such tax credits are submitted to the Kansas Historical Society by June 15, 2009, shall not be affected by the cap provisions in Section 6, 2009 House Bill 2365 and will be fully allowed against outstanding tax liability.
2. For any qualified historic rehabilitation projects that are placed in service after June 15, 2009, or the necessary written applications, forms and other documentation with respect to a qualified historic rehabilitation project needed for issuance of tax credit certificates are submitted to the Kansas Historical Society after June 15, 2009, the fiscal year cap imposed in 2009 House Bill 2365 shall apply. Because the historic rehabilitation tax credit is nonrefundable (must be applied against existing tax liability) and any unused excess credit can be carried forward to future tax years for up to 10 years, experience has shown that on average, not more than 60% of the total credits issued in a given year will be allowed against actual tax liability, with the remaining balance being carried forward. For those historic rehabilitation projects subject to the cap as described above, the Kansas Historical Society will limit issuance of tax credit certificates to \$6.25 million per fiscal year during fiscal years 2010 and 2011. For any tax credit certificates that are issued, those tax credits are fully allowable against tax liability.
3. Qualified historic rehabilitation projects that had received approved Part 2 applications by June 15, 2009 with qualified rehabilitation expenditures (QRE) of greater than \$250,000 that are placed in service after June 15, 2009 and during state fiscal year 2010 will receive one third (1/3) of their earned credits in fiscal year 2010, one third in fiscal year 2011, and the remaining one third in fiscal year 2012. Projects in this category that are placed in service during state fiscal year 2011 will receive one third (1/3) of their earned credits in fiscal year 2011 and the remaining two thirds (2/3) in fiscal year 2012. This formula is based upon the current total amount of approved Part 2 QRE for projects over \$250,000: \$58,760,415.27. The total potential state credits for these projects is \$14,690,103. This amount divided by three equals a yearly credit issuance of \$4,896,701.

3a. The issuance of credits will be continuously monitored. If the targeted issuance of credits has not been met by the last month of the fiscal year, then completed projects over \$250,000 that had a Part 2 submitted, but not yet approved, by June 15, 2009 will be next in line for a 1/3 allocation of tax credits.

3b. The Kansas Historical Society will continue to accept and review new tax credit applications for projects over \$250,000 QRE after June 15, 2009; however, it is not anticipated that these projects will be issued tax credits prior to state fiscal year 2012.

4. Qualified historic rehabilitation projects that involve qualified expenditures of \$250,000 or less will be counted toward the fiscal year cap, but it is not expected that issuance of tax credit certificates with respect to such tax credits will need to be limited. The total approved Part 2 QRE for projects under \$250,000 is \$10,203,867, and the total potential credits for these projects is \$2,550,966. Past history and current knowledge of the open projects indicates that only one third of these projects are likely to be completed within the next fiscal year (\$850,322), which will place the total yearly issuance of credits at approximately \$5,747,023 for state fiscal years 2010 and 2011, leaving room within the cap to accommodate new projects under \$250,000.

5. For any historic rehabilitation tax credits that the Kansas Historical Society has determined were earned during tax years (generally same as the calendar year) 2009 and 2010 but for which no tax credit certificate was issued because of the cap, the Kansas Historical Society shall advise the person earning the credits in writing that such credits can be claimed, beginning in tax year 2011, and the Kansas Historical Society will later issue tax credit certificates for such credits as appropriate. For projects that the Kansas Historical Society has limited the tax years when credits can be claimed due to the cap and for which tax credit certificates are issued effective for tax year 2011, the carryforward period shall begin in tax year 2011.

6. By law, the Kansas Historical Society is bound by the cap in House Bill 2365. The issuance of tax credits will be monitored continuously to ensure compliance. For this reason these guidelines are subject to change without notice.

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