

Subchapter 11J: Vermont Downtown and Village Center Tax Credit Program

- **§ 5930aa. Definitions**

As used in this subchapter:

(1) "Qualified applicant" means an owner or lessee of a qualified building involving a qualified project, but does not include ~~a religious entity operating with a primarily religious purpose~~; a State or federal agency or a political subdivision of either; or an instrumentality of the United States.

(2) "Qualified building" means a building built ~~prior to 1983~~ at least 30 years before the date of application, located within a designated downtown or village center, which upon completion of the project supported by the tax credit will be an income-producing building not used solely as a single-family residence. Churches and other buildings owned by religious organizations may be Qualified Buildings, but in no event shall tax credits be used for religious worship.

(3) "Qualified code ~~or technology~~ improvement project" means a project:

(A)(i) to install or improve platform lifts suitable for transporting personal mobility devices, limited use/limited application elevators, elevators, sprinkler systems, and capital improvements in a qualified building, and the installations or improvements are required to bring the building into compliance with the statutory requirements and rules regarding fire prevention, life safety, and electrical, plumbing, and accessibility codes as determined by the Department of Public Safety; ~~or~~

~~(ii) to install or improve data or network wiring, or heating, ventilating, or cooling systems reasonably related to data or network installations or improvements, in a qualified building, provided that a professional engineer licensed under 26 V.S.A. chapter 20 certifies as to the fact and cost of the installation or improvement;~~

(B) to abate lead paint conditions or other substances hazardous to human health or safety in a qualified building; or

(C) to redevelop a contaminated property in a designated downtown or village center under a plan approved by the Secretary of Natural Resources pursuant to 10 V.S.A. § 6615a.

(4) "Qualified expenditures" means construction-related expenses of the taxpayer directly related to the project for which the tax credit is sought but excluding any expenses related to a private residence.

(5) "Qualified façade improvement project" means the rehabilitation of the façade of a qualified building that contributes to the integrity of the designated downtown or designated village center. Façade improvements to qualified buildings listed, or eligible for listing, in the State or National Register of Historic Places must be consistent with Secretary of the Interior Standards, as determined by the Vermont Division for Historic Preservation.

(6) "Qualified historic rehabilitation project" means an historic rehabilitation project that has received federal certification for the rehabilitation project.

(7) "Qualified project" means a qualified code or technology improvement, qualified façade improvement, ~~qualified technology infrastructure project,~~ or qualified historic rehabilitation project as defined by this subchapter.

(8) "State Board" means the Vermont Downtown Development Board established pursuant to 24 V.S.A. chapter 76A. (Added 2005, No. 183 (Adj. Sess.), § 12; amended 2013, No. 199 (Adj. Sess.), §§ 8, 9; 2015, No. 57, § 71, eff. June 11, 2015.)

- **§ 5930bb. Eligibility and administration**

(a) Qualified applicants may apply to the State Board to obtain the tax credits provided by this subchapter for a qualified project at any time before the completion of the qualified project.

(b) To qualify for any of the tax credits under this subchapter, expenditures for the qualified project must exceed \$5,000.00.

(c) Application shall be made in accordance with the guidelines set by the State Board.

(d) Notwithstanding any other provision of this subchapter, qualified applicants may apply to the State Board at any time prior to June 30, 2013 to obtain a tax credit not otherwise available under subsections 5930cc(a)-(c) of this title of 10 percent of qualified expenditures resulting from damage caused by a federally declared disaster in Vermont in 2011. The credit shall only be claimed against the taxpayer's State individual income tax under section 5822 of this title. To the extent that any allocated tax credit exceeds the taxpayer's tax liability for the first tax year in which the qualified project is completed, the taxpayer shall receive a refund equal to the

unused portion of the tax credit. If within two years after the date of the credit allocation no claim for a tax credit or refund has been filed, the tax credit allocation shall be rescinded and recaptured pursuant to subdivision 5930ee(6) of this title. The total amount of tax credits available under this subsection shall not be more than \$500,000.00 and shall not be subject to the limitations contained in subdivision 5930ee(2) of this subchapter. (Added 2005, No. 183 (Adj. Sess.), § 12; amended 2011, No. 143 (Adj. Sess.), § 22; 2013, No. 199 (Adj. Sess.), § 10; 2017, No. 69, § H.9, eff. June 28, 2017.)

- **§ 5930cc. Downtown and Village Center Program tax credits**

(a) Historic rehabilitation tax credit. The qualified applicant of a qualified historic rehabilitation project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, corporate income tax, or bank franchise or insurance premiums tax liability a credit of 10 percent of qualified rehabilitation expenditures as defined in the Internal Revenue Code, 26 U.S.C. § 47(c), properly chargeable to the federally certified rehabilitation.

(b) Façade improvement tax credit. The qualified applicant of a qualified façade improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 25 percent of qualified expenditures up to a maximum tax credit of \$25,000.00.

(c) Code or technology improvement tax credit. The qualified applicant of a qualified code or technology improvement project shall be entitled, upon the approval of the State Board, to claim against the taxpayer's State individual income tax, State corporate income tax, or bank franchise or insurance premiums tax liability a credit of 50 percent of qualified expenditures up to a maximum tax credit of \$12,000.00 for installation or improvement of a platform lift, a maximum credit of ~~\$40,000.00~~ \$60,000 for the installation or improvement of a limited use/limited application elevator, a maximum tax credit of ~~\$50,000.00~~ \$75,000.00 for installation or improvement of an elevator, a maximum tax credit of \$50,000.00 for installation or improvement of a sprinkler system, ~~a maximum tax credit of \$30,000.00 for the combined costs of installation or improvement of data or network wiring or a heating, ventilating, or cooling system,~~ and a maximum tax credit of \$50,000.00 for the combined costs of all other qualified code improvements. (Added 2005, No. 183 (Adj. Sess.), § 12; amended 2013, No. 199 (Adj. Sess.), § 11; 2015, No. 57, § 72, eff. June 11, 2015.)

- **§ 5930dd. Claims; availability**

(a) A taxpayer claiming credit under this subchapter shall submit to the Department of Taxes with the first return on which a credit is claimed a copy of the State Board's tax credit allocation.

(b) A credit under this subchapter shall be available for the first tax year in which the qualified project is complete. In the alternative, the State Board may allocate the credit available under this subchapter and make an allocation available upon completion of any distinct phase of a qualified project. The allocation and distinct phases of the qualified project shall be identified in the application package approved by the State Board.

(c) If within ~~five~~ two years after the date of the credit allocation to the applicant no claim for tax credit has been filed, the tax credit allocation shall be rescinded, unless the project has an approved federal application for a phased (60 month) project pursuant to Treasury Regulation 1.48-12(b)(2)(v), in which case the credit will not be rescinded until five years from the date of the credit allocation.

(d) Any unused credit under this section may be carried forward for no more than nine tax years following the first year for which the tax credit is claimed.

(e) In lieu of using a tax credit to reduce its own tax liability, an applicant may request the credit in the form of a bank credit certificate that a bank may accept in return for cash, or may accept for adjusting the rate or term of the applicant's mortgage or loan related to an ownership or leasehold interest in the qualified building. The amount of the bank credit certificate shall equal the unused portion of the credit allocated under this subchapter, and an applicant requesting a bank credit certificate shall provide to the State Board a copy of any returns on which any portion of the allocated credit under this section was claimed. A bank that purchases a bank credit certificate may use it to reduce its franchise tax liability under section 5836 of this title in the first tax year in which the qualified building is placed back in service after completion of the qualified project or in the subsequent nine years.

(f) In lieu of using a tax credit to reduce its own tax liability, an applicant may request the credit in the form of an insurance credit certificate that an insurance company may accept in return for cash and for use in reducing its tax liability under subchapter 7 of chapter 211 of this title in the first tax year in which the qualified building is placed back in service after completion of the qualified project or in the subsequent nine years. The amount of the insurance credit certificate shall equal the unused portion of the credit allocated under this subchapter, and an applicant requesting an insurance credit certificate shall provide to the State Board a copy of any returns on which any portion of the allocated credit under this section was

claimed. (Added 2005, No. 183 (Adj. Sess.), § 12; amended 2009, No. 160 (Adj. Sess.), § 30; 2011, No. 45, § 18, eff. May 24, 2011.)

- **§ 5930ee. Limitations**

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed **\$2,600,000.00**;

(2) a total annual allocation of no more than 30 percent of these tax credits in combination with sales tax reallocation may be awarded in connection with all of the projects in a single municipality;

(3) façade tax credits shall not be available for projects that qualify for the federal rehabilitation tax credit;

(4) no credit shall be allowed under this subchapter for the cost of acquiring any building or interest in a building;

(5) credit under any one subsection of 5930cc of this subchapter may not be allocated more often than once every two years with respect to the same building; and

(6) credit awarded under section 5930cc of this subchapter that is rescinded or recaptured by the State Board shall be available for the State Board to award to applicants in any subsequent year, in addition to the total amount of tax credits authorized under this section. (Added 2005, No. 183 (Adj. Sess.), § 12; amended 2007, No. 81, § 23, eff. June 11, 2007; 2009, No. 54, § 29, eff. June 1, 2009; 2011, No. 45, § 19, eff. May 24, 2011; 2013, No. 174 (Adj. Sess.), § 35; 2017, No. 69, § H.8, eff. June 28, 2018.)

- **§ 5930ff. Recapture**

If, within five years after completion of the qualified project, either of the following events occurs, the applicant shall be liable for a recapture penalty in an amount equal to the total tax credit claimed plus an amount equal to any value received from a bank for a bank or insurance credit certificate; and any credit allocated but unclaimed shall be disallowed to the applicant:

(1) The State Board finds that any work performed on the qualified project is inconsistent with the approved application; or the applicant knowingly failed to supply any information, or supplied incorrect or untrue information required by the

State Board or failed to comply with any award condition required by the State Board.

(2) The National Park Service revoked certification for unapproved alterations or for work not done as described in the historic preservation certification application. (Added 2005, No. 183 (Adj. Sess.), § 12; amended 2009, No. 160 (Adj. Sess.), § 31.)