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State and Local Tax Alert: New Effective Date for the Ohio Historic Preservation Tax Credit Certificate Could Cause Delay in Claiming Credit

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On July 1, 2017, a new policy change will go into effect that could have a significant impact on recipients of the Ohio Historic Preservation Tax Credit, O.R.C. § 149.311. This change stems from an announcement by the Ohio Development Services Agency (ODSA) that it will be updating its program policies for the Ohio Historic Preservation Tax Credit. Under the new **program policy** section 8.4, "the effective date for the tax credit certificate will be the date the certificate is signed by the director" of ODSA. This new policy promises to have a major impact as many tax credit recipients will now face a delay in claiming the credit.

In announcing the change, ODSA sent out an email on June 7, 2017 to stakeholders stating: "This policy change means that certificates can no longer be back dated based on the date the certification packet is received by ODSA. Certificates will be signed by the director once all necessary information is received. The date of the signature will be the effective date of the certificate." The new policy goes into effect July 1, 2017, and applies to all applicants, including those already awarded a credit allocation, those who are applying in the current round, and any future awardees.

The policy change promises to delay the effective date for the tax credit certificates. In the past, recipients could "lock in" the effective date by notifying ODSA that the rehabilitation project (or the applicable stage of the project) is complete and submitting the packet of certification materials. This would then trigger a review process, which if favorable, would result in ODSA issuing a back-dated certificate. The new policy ends that practice. The effective date for the tax credit certificate is now the date of the director's signature. As a result, any time required for the review process will now count against the effective date of the certificate.

For some recipients, this could present a significant delay in claiming the credit. Current ODSA guidelines promise that ODSA will review a certification request and within 30 days issue a certification determination or issue a request for additional information. Program

Policy 8.3. Requests for additional information are not uncommon. Each request triggers a new 30-day response period, and this process continues until ODSA reaches a certification determination.

The Ohio Historic Preservation Tax Credit is designed to incentivize the restoration of historic buildings by awarding credits for the completion of rehabilitation projects by owners and qualified lessees. To be eligible for the credit, the rehabilitation project must be pre-approved by the director of ODSA. The credit equals 25% of the qualified expenditures made by the owner or qualified lessee and may be claimed against the income tax, foreign and domestic insurance company gross premiums tax, financial institutions tax, and in some cases, commercial activity tax. The credit is generally capped at \$5 million per project, although catalytic projects may receive a credit up to \$25 million.

Since its inception in 2007, [Ohio Historic Preservation Tax Credits](#) have been approved by ODSA for “284 projects to rehabilitate 398 historic buildings in 52 different Ohio communities.” Tax credits are awarded on a competitive basis for projects that demonstrate a positive economic impact in the surrounding community.

Vorys encourages you to review this alert and contact your Vorys attorney or advisor with questions about how this new effective date may impact your business or community. Please feel free to contact the following Vorys attorneys: Scott J. Ziance, (614) 464-8287, sjziance@vorys.com, or Jonathan K. Stock, (614) 464-5647, jstock@vorys.com.