TITLE 3: TAXATION
CHAPTER 4: CORPORATE INCOME TAXES
PART 14: TAX CREDITS

3.4.14.1 ISSUING AGENCY: Taxation and Revenue Department, Joseph M. Montoya Building, 1100 South St. Francis Drive, P.O. Box 630, Santa Fe NM 87504-0630.
[1/15/1997; 3.4.14.1 NMAC - Rn, 3 NMAC 4.14.1, 12/14/2000]

3.4.14.2 SCOPE: This part applies to every domestic corporation and to every foreign corporation employed or engaged in the transaction of business in, into or from New Mexico or deriving any income from any property or employment in New Mexico.
[1/15/1997; 3.4.14.2 NMAC - Rn, 3 NMAC 4.14.2, 12/14/2000]

3.4.14.3 STATUTORY AUTHORITY: Section 9-11-6.2 NMSA 1978.
[1/15/1997; 3.4.14.3 NMAC - Rn, 3 NMAC 4.14.3, 12/14/2000]

3.4.14.4 DURATION: Permanent.
[1/15/1997; 3.4.14.4 NMAC - Rn, 3 NMAC 4.14.4, 12/14/2000]

3.4.14.5 EFFECTIVE DATE: January 15, 1997, unless a later date is cited at the end of a section, in which case the later date is the effective date.
[1/15/1997; 3.4.14.5 NMAC - Rn & A, 3 NMAC 4.14.5, 12/14/2000]

3.4.14.6 OBJECTIVE: The objective of this part is to interpret, exemplify, implement and enforce the provisions of the Corporate Income and Franchise Tax Act.
[1/15/1997; 3.4.14.6 NMAC - Rn, 3 NMAC 4.14.6, 12/14/2000]

3.4.14.7 DEFINITIONS: [**RESERVED**]
[1/15/1997; 3.4.14.7 NMAC - Rn, 3 NMAC 4.14.7, 12/14/2000]

3.4.14.8 CREDIT FOR PRESERVATION OF CULTURAL PROPERTY:

A. Cultural property credit defined. The preservation of cultural property credit is a credit against a taxpayer's New Mexico corporate income tax due for amounts expended in the restoration, rehabilitation and preservation of cultural property owned by the taxpayer and listed on the official New Mexico register of cultural properties; see Part 4.10.9 NMAC. A corporation that files a New Mexico corporate income tax return may claim a credit against New Mexico corporate income tax due in an amount equal to one-half of the cost of the restoration, rehabilitation or preservation of the cultural property, not to exceed a maximum of twenty-five thousand dollars ($25,000).

B. Filing requirements.

(1) The claim for the cultural property credit shall consist of a copy of the letter of certification, a copy of Form B, part 2 from the cultural properties review committee and a copy of the invoices or a statement from the contractor(s) showing the cost incurred for the year of the claim.

(2) The claim must be submitted with and attached to the New Mexico corporate income tax return for the year or years in which the restoration, rehabilitation or preservation is carried out.

C. Partnership claim for cultural property credit.

(1) A corporation which is a partner in a partnership or in a joint venture may claim its pro rata share of the cultural property credit against its New Mexico corporate income tax due. The total aggregate credit for all partners shall not exceed an amount equal to the lesser of one-half the cost of the restoration, rehabilitation or preservation or twenty-five thousand dollars ($25,000) for a single restoration, rehabilitation or preservation project for any cultural property.

(2) A corporate partner shall claim the cultural property credit in the same manner as specified in Subsection 3.4.14.8B NMAC and shall, in addition, provide a schedule listing the names, addresses and social security numbers or federal employer identification numbers of all partners in the partnership or joint venture, the pro rata share of the credit of each partner and the New Mexico tax identification number under which the partnership or joint venture is filing CRS-1 forms.
[5/17/1988, 9/16/1988, 1/7/1992, 1/15/1997; 3.4.14.8 NMAC - Rn & A, 3 NMAC 4.14.8, 12/14/2000]

3.4.14.9 CORPORATE-SUPPORTED DAY CARE CREDIT

A. Dependent defined. Dependent for purposes of Section 7-2A-14 NMSA 1978 is a child under the age of twelve years who is a dependent as defined in Section 152 of the Internal Revenue Code, as amended or renumbered, and also includes a child of divorced or legally separated parents where the parents meet all the requirements of Section 44A(f)5 of the Internal Revenue Code, as amended or renumbered.

B. Allowable credit; partial offset.

(1) Any receipts of a corporation from an employee for the use of the child care facility shall be considered as a reduction of the allowable expenses for computing the child care credit.

(2) Example: The Spruce corporation receives from employees a nominal fee for use of the child care facility provided by the corporation. The total expenses incurred by the corporation in this taxable year were $12,000. The receipts from the employees amount to $600. Therefore, the allowable tax credit to the corporation is $3,420 computed as follows:

Total expenses incurred	$ 12,000
Less: Receipts from employees	- 600
Net expenses paid	$ 11,400
At 30%, Allowable credit	$ 3,420

[10/16/1984, 9/16/1988, 1/7/1992, 1/15/1997; 3.4.14.9 NMAC - Rn & A, 3 NMAC 4.14.9, 12/14/2000]

3.4.14.10 QUALIFIED BUSINESS FACILITY REHABILITATION CREDIT

A. No qualified business facility rehabilitation credit allowed for cultural or historic properties: No qualified business facility rehabilitation credit will be allowed for any qualified business facility that is also:

(1) a building listed on the official New Mexico register of cultural properties; see Part 4.10.9 NMAC; or

(2) a building listed on the national register or determined to be contributing to a national register district.

B. No qualified business facility rehabilitation credit allowed for costs qualifying for credit under Investment Credit Act: Any expenditure by an owner of a qualified business facility that would qualify for the investment credit provided by the Investment Credit Act may not also be used as the basis for claiming the credit provided in Section 7-2A-15 NMSA 1978.

C. Costs qualifying for the credit. The following costs may be included in determining the qualified building rehabilitation credit:

(1) architectural and engineering services related directly to the restoration, rehabilitation or renovation project;

(2) inspection reports, such as structural conditions or environmental inspections;

(3) building permits and fees;

(4) abatement programs, such as asbestos abatement or lead-based paint abatement;

(5) all direct materials costs used in the project, including energy upgrading materials such as insulation or interior storm windows;

(6) all direct labor costs used in the project, except for salary paid to the owner for the owner's own labor;

(7) all direct materials and labor costs incurred for compliance with the Americans With Disabilities Act;

(8) rental of equipment necessary for project completion, such as tools and machinery;

(9) purchase of tools where the life expectancy of the tool is not longer than the life of the project, such as paint brushes and drop cloths;

(10) upgrade of utilities to meet current codes, including plumbing, mechanical and electrical;

(11) upgrade of utilities connections, including water, gas, electricity and telecommunications;

(12) exterior lighting, security lighting, light fixtures, and alarm systems;

(13) repair or replacement of existing bathroom plumbing fixtures;

(14) New Mexico gross receipts and compensating taxes; and

(15) liability, fire, and workers' compensation insurance premiums during the time of work on the project.

D. Costs not qualifying for the credit: The following costs may not be included in determining the qualified business facility rehabilitation credit:

(1) all acquisition costs of the qualified business facility, such as surveys, appraisals, loan fees, commissions, legal fees;

(2) architectural, engineering and planning services related to expansion of or additions to a building if the expansion or addition increases the usable square footage of the building by more than ten percent;

(3) accounting fees;

(4) office supplies, bank fees and charges, film and similar expenditures;

(5) automotive repairs, maintenance and gasoline;

(6) furnishings, including furniture, floor coverings and carpeting, wall coverings, window coverings, and linens;

(7) purchase of tools where the life expectancy of the tool is longer than the life of the project, such as ladders, drills, and saws;

(8) landscaping;

(9) bathroom accessories;

(10) kitchen appliances, cabinets, and accessories;

(11) meals and food;

(12) membership fees or dues;

(13) property damaged at or stolen from a project site; and

(14) routine maintenance including, but not limited to, cleaning, painting, minor repairs and periodic upkeep except where these items are part of an initial overall restoration, rehabilitation or renovation project.

E. "Single project" defined.

(1) Except as otherwise provided in this subsection, credit for restoring, rehabilitating or renovating a qualified business facility may be claimed only once for a building, although the actual period of time during which that restoration, rehabilitation or renovation occurs may be as long as three consecutive, calendar years.

(2) If a qualified business facility has been restored, rehabilitated, or renovated and has been put into service by a person in the manufacturing, distribution or service industry immediately following the restoration, rehabilitation or renovation, the person claims and is granted a credit under either Section 7-2-18.4 NMSA 1978 or Section 7-2A-15 NMSA 1978 and the qualified business facility is subsequently taken out of service by that person and remains vacant for twenty-four consecutive calendar months, a credit may be claimed for additional costs of restoration, rehabilitation or renovation for that building, provided all other requirements of Section 7-2A-15 NMSA 1978 are met.

F. Prior approval required to qualify for credit:

(1) No qualified business facility rehabilitation credit will be allowed unless the taxpayer has submitted a plan and specifications for the restoration, rehabilitation or renovation of a qualified business facility to the New Mexico enterprise zone program officer of the economic development department and received approval from the New Mexico enterprise zone program officer for the plan and specifications prior to commencement of the restoration, rehabilitation or renovation.

(2) In addition, the taxpayer must receive certification from the New Mexico enterprise zone program officer after completing the restoration, rehabilitation or renovation that it conformed to the plan and specifications.

G. Filing requirements:

(1) The claim for the qualified business facility rehabilitation credit shall consist of the certification from the New Mexico enterprise zone program officer and a completed claim form provided by the department.

(2) The certification and claim form must be submitted with and attached to the New Mexico corporation income and franchise tax return (CIT-1) or the New Mexico income and franchise tax return for "S" corporations (CIT-2) for the year or years in which the restoration, rehabilitation or renovation is carried out.

(3) The credit may be claimed only against the New Mexico corporate income tax due, and not against New Mexico franchise tax due.

H. Record retention requirements.

(1) The original contracts, invoices, bills, statements and other documents showing the costs incurred for the year or years in which a qualified business facility rehabilitation credit is claimed must be retained for three calendar years following the close of the calendar year in which the credit is claimed.

(2) Copies of the original contracts, invoices, bills, statements and other documents must be provided to the department on written request or during the course of an audit.

I. Claim for qualified business facility rehabilitation credit deriving from partnership, joint venture or limited liability company:

(1) A corporation that is a partner in a partnership or joint venture or who is a shareholder in a limited liability company that is not required to file and pay income taxes as a corporation under the Internal Revenue Code may claim a credit against the corporation's New Mexico corporate income tax due in an amount equal to the corporation's pro rata share of the qualified business facility rehabilitation credit of the partnership, joint venture or limited liability company. The total aggregate credit for all partners or shareholders shall not exceed an amount equal to one half the cost of restoration, rehabilitation or renovation or fifty thousand dollars ($50,000), whichever is less, for a single restoration, rehabilitation or renovation project for any qualified business facility.

(2) A corporation claiming the qualified business facility rehabilitation credit derived from a partnership, joint venture or limited liability company shall claim the credit in the same manner as specified in Subsections F and G of Section 3.4.14.10 NMAC but shall also provide a schedule listing the names, addresses and social security numbers or federal employer identification numbers of all partners in the partnership or joint venture or the shareholders in the limited liability company, the pro rata share of the credit of each partner or shareholder and the federal employer identification number and New Mexico CRS identification number, if any, of the partnership, joint venture or limited liability company.

J. Total claimable in a year may exceed $50,000:

(1) No corporation may claim nor may the department allow a credit in excess of $50,000 for any single project. A corporation, however, may be involved in several different approved projects. If the corporation's share of allowable credits from the several projects exceeds $50,000, the corporation may claim and the department may allow an aggregate credit amount which exceeds $50,000.

(2) Example: A corporation owns a qualified business facility and is also a partner in a partnership and a shareholder in a limited liability company, both of which also own qualified business facilities. All three undertake restoration, renovation or rehabilitation projects on their respective buildings within the same year. The corporation earns credits of $40,000 from the corporation's own building, and $20,000 and $12,000 shares from the other two. The corporation may claim a credit equal to the sum of the corporation's share from the three projects, or $72,000. If, however, the $72,000 exceeded the corporation's income tax liability before application of this credit, then the excess would have to be carried into succeeding taxable years.

K. Priority in claiming: A corporation that has both an amount of carryover credit from a prior taxable year and a new credit amount derived from a qualifying restoration, rehabilitation or renovation project in the taxable year for which the return is being filed shall first apply the amount of carryover credit against the corporation's income tax liability. If the amount of the liability exceeds the amount of the carryover credit, then the current year credit may be applied against the liability.
[2/9/1995 1/15/1997; 3.4.14.10 NMAC - Rn & A, 3 NMAC 4.14.10, 12/14/2000]

3.4.14.11 TAX CREDITS; APPLICATION TO UNITARY GROUPS: With respect to taxable years beginning on or after January 1, 2020, when any corporation properly files as part of a worldwide, water’s edge or consolidated return, if that corporation has qualified for and continues to hold an unused amount of New Mexico tax credit that it could properly take against its tax liability in a particular taxable year, then that unused amount of tax credit may be applied against the tax liability of the unitary group in accordance with the law applicable to that credit. Any other limitations on the credit apply in the same manner to the unitary group as they would apply to the corporation that holds the credit.
[3.4.14.11 NMAC - N, 03/23/2021]

HISTORY OF 3.4.14 NMAC:
Pre-NMAC History: The material in this part was derived from that previously files with the State Records Center:
R.D.-C.I.T. Regulations 14:1, 14:2, Regulations Pertaining to Corporate Supported Child Care; Credits Allowed Corporation Income Tax Act Section 7-24A-14 NMSA 1978, filed 10/16/1984.
R.D.-C.I.T. Regulation 8.6:1, 8.6:2, 8.6:3, Regulations Pertaining to the Corporate Income Tax Act Section 7-2A-8.6 NMSA 1978, filed 5/17/1985.
R.D.-C.I.T. Regulations 8:1/8:2, Regulation Pertaining to Separate Accounting Defined Corporation Income Tax Act Section 7-2A-8 NMSA 1978, filed 5/12/1986.
R.D.-C.I.T. Regulation 5.1:1/2, Regulation Pertaining to Corporation Income Tax Act Section 7-2A-5.1 NMSA 1978, filed 11/18/1986.

R.D.-C.I.T. Regulation 9.1:1, Regulation Pertaining to Corporation Income Tax Act Section 7-2A-9.1 NMSA 1978, filed 11/18/1986.
C.I.T. Regulation 9:2, Regulation Pertaining to Reporting Methods for the Corporation Income Tax Act Section 7-2A-9 NMSA 1978, filed 6/2/1987.
TRD Rule 2A-88, Regulations Pertaining to the Corporate Income and Franchise Tax Act (Sections 7-2A-1 to 7-2A-13), filed 9/16/1988.
TRD Rule CIT-91, Regulations Pertaining to the Corporate Income and Franchise Tax Act 7-2A-1 to 7-2A-14 NMSA 1978, filed 1/7/1992.

History of Repealed Material: [**RESERVED**]

NMAC History:
3 NMAC 4.14, Tax Credits, filed 12/31/1996.
3.4.14 NMAC, Tax Credits, filed 12/1/2000.