**Opinion Letter**

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| **Letter Number:** | **O-2002-012** |

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| **Tax Type:** | **Corporate Income Tax; Individual Income Tax** |
| **Brief Description:** | **Historic Preservation Tax Credits** |
| **Keywords:** |  |
| **Approval Date:** | **07/22/2002** |

**Body:**

Office of Policy & Research

July 22, 2002

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XXXX

Re: Historic Preservation Tax Credit Opinion Letter Request

Dear XXXX:

This letter responds to your correspondence dated July 12, 2002, in which you ask whether the recent amendments in Section 31 of 2002 Senate Bill 39 to the Kansas historic preservation tax credit provisions, K.S.A. 2001 Supp. 79-32,211, apply to the Kansas historic preservation project your firm is involved in. Your letter indicates that the project is pursuant to a qualified rehabilitation plan, commenced construction in October 21, 2001 and will be “placed in service” in August 2002. Your firm is a calendar-year taxpayer. Your firm did not claim historic preservation tax credits under K.S.A. 2001 Supp. 79-32,211 for any expenses incurred in 2001. Section 31 of 2002 Senate Bill 39 provides for assignment of the tax credits, under certain circumstances, and for allocation of the tax credits among partners of a partnership earning the credits by executed agreement. You ask whether these provisions apply to the above project.

As Section 31 provides, the amendments to K.S.A. 2001 Supp. 79-32,211 apply to tax years commencing after December 31, 2001. Under the prior law, the historic preservation tax credits were earned in the tax year that the costs and expenses for the project were incurred. Under the new law, such credits are earned in the year when the project is “placed in service.” Unless you have already claimed in tax year 2001 historic preservation tax credits for costs and expenses incurred in tax year 2001 in connection with the project, you may claim in tax year 2002 historic preservation tax credits with respect to all qualified expenditures incurred in the project, assuming your tax year 2002 commences after December 31, 2001. The new provisions providing for assignment of tax credits by the entity earning the credits and allocation of the credits among partners by executed agreement would apply to the tax credits earned in the tax year when the project is placed into service, assuming it is placed in service in a tax year commencing after December 31, 2001. These new provisions would not apply to any historic preservation tax credits that you have claimed in a tax year commencing prior to December 31, 2001.

Please let me know if you have further questions.

Very truly yours,

Richard L. Cram

**Date Composed: 07/24/2002 Date Modified: 07/24/2002**