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Presented to the Faculties of the University of Pennsylvania in Partial Fulfillment of the Requirements for the Degree of Master of Science in Historic Preservation 2005.

Advisor: Donovan D. Rypkema

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Financial Incentives for Historic Preservation: An International View

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FINANCIAL INCENTIVES FOR HISTORIC PRESERVATION:
AN INTERNATIONAL VIEW

Rebecca L. McCleary

A THESIS

in

Historic Preservation

Presented to the Faculties of the University of Pennsylvania in Partial Fulfillment of the
Requirements for the Degree of

MASTER OF SCIENCE IN HISTORIC PRESERVATION

2005

Advisor
Donovan D. Rypkema
Lecturer in Historic Preservation

Reader
John C. Keene
Professor of City & Regional Planning

Program Chair
Frank G. Matero
Associate Professor of Architecture

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Chapter 1: Introduction

1.1 Overview

Market-based incentives offer a powerful reason for the public at large to retain, care for, invest in, and responsibly rehabilitate historic buildings. Though historic preservation has sometimes acquired a bad public image as a being overly regulatory and authoritarian, with no real means of rewarding those who follow imposed requirements, financial incentives offer a positive and more broadly defensible reason for the public to get involved with responsible preservation activities, other than the fact that they are being compelled to do so by the government. Much more could be said about the finer points of preservation tax incentive systems in the United States and how they have been utilized, because the topic has been well documented and is widely understood by American practitioners.

Less well documented, however, are the preservation incentive systems in place in other nations. Around the world, a wide variety of incentive programs has been created to motivate historic property owners and investors to retain and maintain their buildings and sites. Reflecting their diverse origins, enabling legislations, financial systems, and the different roles that governments, private interests, and the public at large play in protecting heritage properties in these nations, these programs are predictably far-ranging and dissimilar. Many of the programs are unlike any system in place in any level of government in the United States.

The primary types of financial incentives to be examined in this paper are:

- **Income Tax Deductions, Credits, and Rebates for property investment** – In its most typical form, this type of incentive allows a property owner or other interested party to be compensated for rehabilitation costs associated with construction work on his building. The incentive could be given in the form of a tax “credit,” which is a dollar-for-dollar diminishment of the amount of tax owed equal to the amount or

percentage of the expenditure allowable, or a “deduction” which is a diminishment of the amount of “taxable income” on which the investor’s tax is calculated.

- **Tax Incentives for Donations to Heritage Organizations** – This incentive works to the advantage of heritage organizations (typically non-profit corporations), and individuals or organizations who donate to the heritage organizations. Donations to some heritage organizations and charities can be deducted from the donor’s total taxable income by the full amount, a percentage, or some fixed amount. In other cases, donating money or property to a heritage organization may free the donor from paying some portion of another tax, such as inheritance or capital gains tax.
- **Easements** – A form of donation, easements allow property owners to receive tax deductions or other financial benefits in exchange for agreeing to a diminishment of their property rights. A typical form is a “façade easement,” in which property owners agree not to alter some aspect of the exterior of their property by “donating” that right to a non-profit organization or government body in perpetuity. The donation can never be rescinded, and the non-profit is then charged with enforcing the agreement over the entire life of the property.
- **Tax Exemptions for Heritage Organizations** – In addition to being eligible to receive tax-deductible donations, many heritage organizations are also free from paying some taxes or duties, such as property, land, or inheritance tax.
- **Property Tax Abatements** – Typically offered at the local level, this incentive permits historic property owners or investors to claim a full or partial reduction, freeze, or deferment of property taxes or rates, sometimes to help control the costs of a rehabilitation which has increased a property’s value. The incentive could be achieved either by adjusting the property’s mill rate, or by assessing it at a lower value than would be otherwise applicable.¹
- **Sales Tax Concessions or Rebates** – Some countries allow the sale of building materials or services relating to historic property maintenance to require no sales tax, or reduced sales tax. This is the case in some European nations which assess a standard VAT (Value Added Tax) for all transactions within the nation’s boundaries.
- **Other Tax Benefits** – Less common varieties of tax benefits for historic properties include exemption from Stamp Duty and accelerated depreciation for heritage buildings.
- **Grants** – The most common form of government funding is grant assistance, taking the form of either entitlement grants (which are guaranteed as-of-right to every interested party who meets certain set qualifications), or discretionary/performance

¹ National Incentives Taskforce for the Environment Protection and Heritage Council of Australia, *Making Heritage Happen: Incentives and Policy Tools for Conserving Our Historic Heritage – Summary Report*, (Adelaide, Australia: Environmental Protection and Heritage Council, 2004), 4, http://www.ephc.gov.au/pdf/EPHC/Summary_Making%20Heritage%20Happen.pdf.

grants (which are only given to certain applicants based on their quality of application, their financial need, the amount of funds available, or other factors).

- **Loans** – These funds can be made available either in the form of low interest or no interest loans directly from the government, or as an interest-rate subsidy on a loan from a private lender.
- **Direct Subsidies for Private Heritage Organizations** – Many heritage organizations, although they are private, receive funding directly from the government. Sometimes they then pass the governmental funding onto individuals or other private organizations in the form of grants or loans, acting as an intermediary and manager for the government money.
- **Other Programs** – Some programs exist which fit none of these categories but do have some measurable positive effect on heritage investment. In many cases, these programs are not necessarily intended to fund heritage, but cause secondary financial benefits for heritage properties.

In some instances, governmental programs and laws can have the effect of diminishing the financial benefits of investing in or owning a heritage property. Some of those cases will also be examined here. In most countries, different aspects of these programs could be available on the national, provincial, and local levels.

A great deal can be learned about a nation's conception and valuation of heritage from an examination of its financial incentives. Such a study sheds light on the level of personal responsibility for heritage that is accepted or expected of members of that society. The assumptions and expectations illustrated through these programs expose deeply rooted ideas about whom a culture belongs to – individuals, the people as a body, or the state as an autonomous authoritative force separate from the people.

While these systems may be reasonably well-known to preservationists living and operating in their own countries, few in the international preservation community know much about these programs. As ties between preservation practitioners are ever more frequently extending across national boundaries, a shared knowledge of these programs would greatly aid preservationists operating outside their home countries, as well as

preservation policy-makers around the world. For these reasons, my thesis will investigate the following questions:

- What financial incentives for private preservation projects exist outside of the United States?
- What are the scopes and bases of these programs?
- What relevant relationships exist among these programs and governments, individuals, non-profit organizations, and for-profit corporations?
- How successful are these programs?
- What patterns emerge from these observations? What conclusions can be drawn about relationships between these nations and their incentive programs?

1.2 Methodology and Scope of Inquiry

Because of space and time constraints, this thesis will not attempt to describe every non-American incentive program. In fact, preliminary research has identified at least 36 additional national or multi-national governmental programs that have not been included in this paper, but would ideally be included in a more expansive future study. The nations represented here have been selected based on a variety of factors, including the relative magnitude and importance of their incentive programs, the level of preservation activity present within the country, and the availability and accessibility of information about their programs. The selection was influenced by a desire to achieve some measure of geographic, cultural, and economic diversity among the sample. Programs covered here are arranged roughly geographically, and start with Europe, the region with by far the largest number and variety of programs.

Chapter 2: Europe

In addition to the preservation policies and incentives set by individual nations, European heritage preservation is also affected by recommendations and rules set by two international organizations: the Council of Europe and the European Union (EU). Formed as a response to the devastation and discord that Europe suffered during World War II, the Council of Europe exists to promote a shared European identity, defend human rights, and peacefully develop pan-European agreements. The Council's parliamentary decisions are sent to the individual governments of its 46 member states either in the form of non-binding recommendations, or as declarations that are included in European conventions that legally bind member states that ratify them. A newer entity, the European Union, is an intergovernmental organization of 25 countries that has more robust political and economic powers than the Council of Europe. The EU's most notable achievements have been economic, creating a unified currency and system of free trade among member states, and instituting a common system of taxation, the VAT (Value Added Tax). The VAT system is compulsory for member states, though nations can individually decide to apply VAT at different rates for different goods and services. The standard rate of VAT throughout the EU is 15%, although special rates ranging between 5-25% can be applied as exceptions for certain goods and services. Some EU member states have used this freedom in charging VAT as a means of indirectly subsidizing heritage.

2.1 The Council of Europe

The oldest multi-national political organization on the European Continent, the Council of Europe is comprised of full representatives from 46 countries, including 21

countries from Central and Eastern Europe. A precursor to the 25-nation European Union, it shares many of the EU's goals but is politically distinct.

In addition to offering funding for some of the programs and organizations mentioned above, and others throughout the continent, the Council of Europe has on numerous occasions over the last two decades urged member states to offer financial incentives for private heritage conservation. To this end, they have solicited research on what incentive programs exist and function best, culminating in the creation of a comprehensive online database of European heritage policy, the European Heritage Network (www.european-heritage.net). One of the many documents released in light of this research was a set of October 2003 recommendations, which proposed a number of different measures that member nations could adopt to encourage private investment in culture. Based on the most successful programs currently existing, they recommended that:

- Consideration should first be given to income and profits tax concessions. For example when individuals wish to transfer works of art to museums, the transfer could be tax-exempt. Equally, firms that have acquired works of art may be authorised to deduct their value from their taxable profits provided they are exposed in areas accessible to employees and visitors, perhaps with the additional proviso that they should eventually be donated to a public museum or institution.
- Another way of encouraging individual involvement in the art market could be to grant exemptions concerning the payment of death duties. For example, the value of items of artistic or historic significance purchased by individuals could be excluded from the calculation of death duties.
- A third method of encouraging private citizens to invest in heritage protection is to establish special VAT arrangements. For example maintenance work on historic buildings might be liable to a lower VAT rate. The same could apply to various cultural products, such as concert tickets, museum entrance charges, books or records.
- Finally, an original way of increasing cultural funding is to allocate a proportion of national lottery profits to heritage conservation. It has already been tried in several countries, some funds being available with tax concessions (for example in the UK if the receiving cultural organisation is a registered charity.)

2.2 Austria

Tax Incentives

Austria shows no preference towards heritage in its collection of VAT taxes. VAT rates for construction or maintenance work performed on historic structures and heritage-related professional services are both 20%, the standard for those types of activities in Austria. There are also no specific concessions for heritage on wealth, inheritance, or gift taxes; however, the outlook for heritage-friendly taxation policies in Austria is not completely bleak. Since the passage of the Tax Legislation amendment (Abgabenänderungsgesetz) in 1989, and the amendment to the Law for the Protection of Monuments in 1990, it has been possible for companies and individuals to deduct the cost of repairs or necessary alterations to income-producing federally recognized monuments (Denkmäler) from their income tax as an anticipatory write-off. Privately owned properties are assumed to have no monumental status unless they are so designated by the Office for Federal Monuments (Bundesdenkmalamt), while publicly owned or religious organization owned properties are assumed to have such status unless the Bundesdenkmalamt finds otherwise.²

The costs of rehabilitating these historic properties can be deducted from income taxes much more quickly and easily than would be possible if the buildings had no monument designation, but the time period during which owners can claim the full deduction depends on the way in which income is produced on the property. Owners of monuments used for commercial purposes can deduct 100% of their costs equally over a ten-year period, while owners who rent out their property can deduct equally over fifteen

² Franz Neuwirth, "Funding the Restoration of the Architectural Heritage: The Austrian Experience," in *Legal Structures of Private Sponsorship: International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997* (Munich: International Council on Monuments and Sites, 1997), 24-25.

years. The Bundesdenkmalamt must certify that deducted costs cover work that was in the interest of preservation.³

Austria has one major national property tax concession, whereby all buildings constructed before 1880 are valued at 30% einheitswert (a real estate assessment value, serving as the basis for real estate taxes).⁴ The tax value of properties that are important for reasons relating to the arts, history, or science, particularly listed buildings, are also reduced to 30% of their normal value if their average maintenance costs exceed their income.⁵

The Austrian Tax Law also allows donations to the Bundesdenkmalamt to be deducted from the donor's taxable income. The deduction may equal as much as 10 % of the previous year's income. The donations may be general, or donors may explicitly request that their money be targeted at a specific monument. When this is possible, the donation will be transferred to the monument as an additional subsidy.⁶

Grants and Loans

Although they have no legal entitlement to federal grant money, owners of federally recognized monuments can apply for subsidies for the maintenance and restoration of their properties. Typically, these federal grants are to be used only for costs exceeding the normal maintenance expenses associated with the upkeep of the monument. Although in special cases higher amounts can be granted, 12% is the average amount of rehabilitation cost that

³ Ibid, 25, 28.

⁴ John Sell, "Brief Note on Taxation and Historic Buildings," Appendix 1 to Council of Europe Parliamentary Assembly "Tax Incentives for Cultural Heritage Conservation," Document 9913, (Strasbourg, France: Council of Europe, 2003). <http://assembly.coe.int/Documents/WorkingDocs/doc03/EDOC9913.htm>.

⁵ Neuwirth, "Funding the Restoration," 27.

⁶ Ibid, 24-25.

may be recovered through government grants.⁷ Monument owners can apply for grants through their regional conservation office (Landeskonservatorate).

A nationally-funded program focused on façade restoration (Fassadenrestaurierungsaktion) and townscape preservation has also been instituted by the Federal Ministry for Education and Cultural Affairs and supported by all levels of government. The program allows for the reimbursement of 30-60% of eligible costs for the preservation of prominent village and town façades, with the aim of improving monuments and their surroundings. The eligible façades are chosen by the local community and approved by the Bundesdenkmalamt. This program complies with a campaign of the Council of Europe advocating the preservation and maintenance of the rural architectural heritage. Franz Neuwirth of the Ministry for Education and Cultural Affairs believes that:

Façade Restoration Campaigns proved successful and have been in many cases the decisive initiative towards townscape preservation and the sensitizing of the inhabitants. They must not lead to mere cosmetic treatment of façades with new construction behind. Such “Potemkin villages” are not the aim of support. In contrary, they are thought as an initiative for improvement of townscape and ensemble.⁸

Austrian law also includes other initiatives and programs that have the effect of encouraging private investment in heritage properties, though that result is not the primary focus of the law. Many of these incentives stem from efforts to improve and rehabilitate affordable housing units for low and middle-income residents, particularly apartment dwellers. One such program is the Federal Law on Housing for Young Families (Startwohnungsgesetz), which offers some incentives that could finance the rehabilitation of historic properties. The law states that persons younger than 30 years old with an income below a certain threshold can collect interest free loans to obtain adequate, modern housing

⁷ Ibid.

⁸ Ibid, 27.

conditions in rental apartments. Eligible apartments must have been constructed prior to 1945, and cannot exceed a maximum of 90 square meters. The amount of loan funding may be as much as the actual cost of restoration and repair work, and the period of the loan can be as long as 25 years.⁹

The Federal Improvement Law for Housing (Wohnungsverbesserungsgesetz) supports the improvement of housing and plumbing facilities in housing units over 20 years old and smaller than a certain size. Housing Improvement grants are funded through a number of measures, including joint federal and provincial loans, annuity interest, lodging allowances, and suretyship. Landlords, owners, and tenants may apply, and depending on applicable provincial laws, the type of work carried, and the resources of the applicant, grants may equal the entire cost of work. In some cases, tenants who cannot afford rent increases resulting from such renovations can also receive government rent subsidies to remain in their apartment. The only additional conditions for these loans stipulate that the costs of improving the apartment do not exceed the cost of creating a comparable new apartment, and that the rent after the improvement is “economically reasonable.”¹⁰ Neuwirth indicates that, “such grants are given for practically all measures for improvement and restoration.”¹¹

Other Programs

Another housing program which is relevant to but not necessarily focused on preservation can be found in the amendments to the Austrian Rent Law (Mietengesetz), which regulates the tenancies of small and medium sized apartments. The foundations of

⁹ Ibid.

¹⁰ Ibid, 26.

¹¹ Ibid.

Austria's strong Rent Law date back to the World War I era, when it was passed to protect tenants from the skyrocketing inflation and economic ruin that gripped Austria in the period between the two World Wars. The strong rent controls that the law required eventually drove down some buildings' profits to such an extent that there was little incentive for landlords to perform necessary maintenance, and many older buildings suffered from neglect. In light of this situation, amendments to the Rent Law permitted the suspension of rent controls for recognized historic or culturally important buildings if their owners made a considerable investment in the restoration of the building. This development prompted new interest in rehabilitating and investing in historic rental properties.¹²

Provincial Programs

In addition to these grants, historic properties may be eligible to receive considerably higher public subsidies from regional and local authorities.¹³ Austria operates on a federal system, and, for most of its history, the provincial governments have been solely responsible for regulating the construction and rehabilitation of buildings. Until the passage of a 1978 amendment to the Law for the Protection of Monuments, the federal government was largely unable to participate in the protection of privately owned heritage properties. As a result, provinces and towns carried out most preservation activity, with different laws and incentives represented in each area. One such program is Vienna's Historic Town Center Preservation Fund (Altstadterhaltungsfonds), adopted in 1972 after an amendment to Vienna's provincial building regulation. The Fund can be disbursed as loans, interest payments, securities, or grant aid for preservation work within certain protected historic

¹² Ibid, 27.

¹³ Ibid, 24-25.

zones. Eligible projects must be beyond the financial means of the owner, and must not be eligible for financial assistance through other city or federal programs.¹⁴

Similar programs exist in the Cities of Salzburg and Gratz, and the Provinces of Salzburg, Tyrol, Styria, and Carinthia. Regional laws establish protection zones in each town's center, and owners of property within those zones have access to grants and other subsidy assistance from a Historic Town Center Preservation Fund. Funds are replenished through town and province appropriations, loan repayments, investment proceeds, donations, and, in Vienna, Salzburg, and Graz, a 10% tax on television and radio license fees.¹⁵ This program is appealing in the way that it combines the "stick" and the "carrot" in one law – an owner's property rights diminish because of inclusion in the historic zone, but that negative impact is mitigated by the fact that he has gained access to a pool of money that would have been otherwise unavailable.

The town of Krems in the Province of Lower Austria has also established a grant program and a revolving loan fund for rehabilitation in its historic town center. The town's commitment to regulating construction, demolition, renovation, and alterations in its historic center has been longstanding – in 1959 the town began offering grants to help owners with the cost of renovating their historic buildings. Subsequently, the community also established a revolving fund for private building owners, offering them interest free loans for façade restoration work. Krems' revolving fund is the only example in Austria where a loan fund is so well-established that it is replenished mostly by repayments.¹⁶

The Federal Law on Housing Promotion (Wohnbauforderung), advocating the development and extension of buildings, is funded and administered through Austria's

¹⁴ Ibid, 25.

¹⁵ Ibid, 26.

¹⁶ Ibid.

provinces. It states that the provinces must subsidize the creation of small and medium-sized apartments constructed through changes to existing buildings. These changes could include the development and extension of federal monuments or provincially protected buildings. Although this provincial funding introduces the possibility that heritage buildings could be altered in a manner unsympathetic to their historic fabric, it also provides an opportunity for buildings that would otherwise remain vacant to be adapted and reused. The apartments created with these funds must be below a maximum size (ranging between 130-150 square meters), or for families below a certain income threshold. For the most part, only landlords and property owners may apply for these funds, though in some provinces there are instances when tenants may be eligible for funds for the renovation of attic and loft spaces. These funds may be disbursed as loans, annuity and interest allowances, or suretyship. Neuwirth opines:

This law has proved to be an important support for the revitalization of monuments and old structures which mostly need additional space by development and extension in order to meet the new requirements and to gain a financial balance of the project.¹⁷

Although each is based on the Federal Urban Renewal Law (Stadterneuerungsgesetz), the various provincial urban development programs created under the legislation differ substantially from each other. Lower Austria's program is barely used, but Vienna's program finances some part of most of the renovations that take place in the province. For the most part, these programs establish designated urban renovation districts and improvement corridors, in which grants and loans are provided for property renovations. Grants may equal as much as 70% of the total project costs, and loan interest rates may be as low as 7.75% (normal bank interest averages 16%) and have repayment periods as long as 12 years. In addition to renovation expenses, funds from this far-reaching

¹⁷ Ibid.

program can also be applied towards expenses associated with preparatory building investigations, architectural competitions, reports, public communications, temporary tenant relocation, and other special expenses. Some properties that are deemed to be of particular interest to the local townscape may receive 100% funding for their renewal projects.¹⁸ This program also has some tax benefits which are similar to those offered under the Law for the Protection of Monuments, in that costs stemming from projects required by the law can be deducted from certain kinds of taxes.¹⁹

2.3 Belgium

Belgium is divided into three federal “regions” (the Flemish Region, the Walloon Region, and the Brussels Capital Region) and several legally defined linguistic and cultural “communities,” each with distinct roles, customs, and responsibilities with respect to cultural heritage. As a result, the preservation framework and incentive programs in Belgium may seem particularly convoluted to the outside observer. The federal government has largely abdicated the duties associated with maintaining Belgium’s national architectural heritage. The country’s various regions and communities have primary responsibility for it, but some of the federal tax laws are relevant to historic property preservation.²⁰ Belgium assesses VAT at a rate of 6% for work associated with the construction, renovation, rehabilitation, improvement and repair of dwellings which have been in use for more than fifteen years. The same rate applies to other work and professional services performed for such dwellings.²¹ The standard rate of VAT of 21% is applicable for goods and services

¹⁸ Ibid, 26-27.

¹⁹ Ibid.

²⁰ Council of Europe, *European Heritage Network* database, <http://www.european-heritage.net/sdx/herein>.

²¹ Sell, “Brief Note on Taxation.”

associated with all other types of historic buildings.²² The aforementioned regions and communities administer all other government preservation funding.

The Brussels Capital Region

In 2000, the Brussels Capital Region government spent Fr30 million on subsidies to associations and BEFr368 million restoring or maintaining “private” property. These figures represent a 30% and 348% percent increase, respectively, over the previous year’s amounts. In contrast, the amount that the regional government spent on works for “public” property in that same period decreased by 52%, from Belgian Fr415 million to Belgian Fr200 million.²³ Belgium ratified a new constitution in 1993, and the national legislature passed many new laws immediately afterwards with the aim of forming a comprehensive heritage protection policy, and a complete inventory for the Region. With those efforts mostly complete, the Region has now turned its attention more towards actual restoration work.

Tax Incentives

The regional government offers heritage property owners a few basic incentives, as established by the Ordinance on the Conservation of the Built Heritage adopted in 1993. “Income from unlet listed property is exempt from property tax”²⁴, and owners of listed buildings who open their properties to the public can deduct certain maintenance costs from their income taxes; and, if located within the Region, listed property willed to the Region is exempt from inheritance tax. The Council of Europe’s European Heritage Network reports that Capital Region minister responsible for sites and monuments is planning to extend

²² Sell, “Brief Note on Taxation.”

²³ *European Heritage Network*.

²⁴ *Ibid.*

some of these tax exemptions, and is considering tax concessions for businesses that renovate their buildings.²⁵ Both the property tax and income tax benefits listed here are only extended to sites that are not used as rental properties.

Grants

The Sites and Monuments Department of the Capital Region provides grants to owners of listed heritage properties. Preliminary preservation work is subsidized at a rate of 25%, maintenance work at 40% of allowable costs, and restoration work at rates of 25% or 40%, depending on circumstances.²⁶

Municipalities

In practice, almost all heritage activity is on the regional level, as few municipalities have a heritage policy or budget. The lone exception is Brussels, which does have an alderman for heritage. If a municipality does choose to subsidize restoration or conservation work for a listed property within its territory, the amount of the subsidy cannot exceed 15% of allowable project costs.²⁷

The Flemish Region

In 2001, the Flemish Regional Government's budget for heritage conservation totaled €52 million, 91% of which was spent on restoring protected monuments and 5% of which was spent on preventive maintenance. 1% of the total budget funded protected landscapes.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid.

Tax Incentives

In the Region, many of the costs of maintaining and restoring monuments and landscapes qualify for government grants. Those projects that do not, including work performed on locally protected sites that are not recognized as monuments, may benefit from tax relief. Tax relief is extended to sites only if they are protected, accessible to the public, and not used as rental properties. 50% of these rehabilitation expenses are tax-deductible, with a maximum deduction of €27,500.

Donations of €30 or more to qualifying heritage non-profits are tax deductible. The most prominent of these organizations is Flanders' Heritage. The number of organizations approved to accept tax-deductible donations is rising, and may eventually include all organizations belonging to the Flemish Forum of Heritage Associations.²⁸

Grants

The Flemish Government provides several grants for maintenance and preservation of protected monuments. The first of these, the Maintenance Grant, disburses 40% of the maintenance expenses for a listed monument within the Flemish Community. The total amount of the expenses must fall between €1,000 and €30,000, resulting in a grant of €400 to €12,000.²⁹ Although the Flemish government strongly stresses the importance of preventative maintenance over repairs and restoration, it also administers another grant program that provides money for monument restoration projects. Restoration Grant funds are contributed primarily by the Flemish Community, but are supplemented with money from the province or community where the monument is located. Like Maintenance Grants,

²⁸ Ibid.

²⁹ Joris Scheers, *De Onderhoudspremie voor Beschermd Monumenten*, ([Antwerp]: Afdeling Monumenten en Landschappen, 2004), 6, http://www.monument.vlaanderen.be/aml/nl/wet_pdf/brochure_ouderhoudspremie_er.pdf.

Restoration Grants equal 40% of the costs of work for privately owned monuments, but unlike the Maintenance Grants, they can be used for publicly owned monuments, in amounts that vary between 60% and 90%. The program also offers 80% grants for mills and monuments "with no economic benefit."³⁰ Neither the Maintenance Grant nor the Restoration Grant can be applied to monuments located in protected city and town sites. The newest grant offered by the Flemish Region is a grant for protected landscapes that provides 40% funding towards the preservation, maintenance, repair, and management of permanently protected landscapes.³¹ The funds can also be used to advance landscape research, public access, and public awareness activities.

The Flemish Region also supplies financial aid to a number of "government-supported organizations" that offer preservation related services to the public, including Flanders' Heritage, the Flemish Forum for Heritage Associations, and Monument Watch (Monumentenwacht). Monumentenwacht is an umbrella organization for five provincial non-profits, which receives half of its funding from the regional government. Primarily devoted to providing regular maintenance services to historic structures, the Flemish model of Monumentenwacht is based on a similar organization created in the Netherlands in the 1970s.³² In 1998 only 10% of the service's income was generated by subscription and inspection fees, making the Flemish organization far more dependent on government funding than the Netherlands Monumentenwacht.³³

³⁰ *European Heritage Network*.

³¹ *Ibid.*

³² See description of Monumentenwacht Netherlands below for more detailed information.

³³ Binst, Stefan, "Monument Watch," in *Taking Stock of Our Ecclesiastical Heritage*, (Kilkenny, Ireland: the Irish Heritage Council, 1997), <http://www.heritagecouncil.ie/publications/ecclesiastical/monwatch.html>.

Provincial Programs

Provinces and municipalities are legally obligated to pay a fixed percentage of the costs of restoration for protected monuments, and in 2001, they collectively contributed approximately €8 million towards the Restoration Grants for privately owned monuments. They collectively contributed about €9 million towards the Restoration Grants for publicly owned monuments, and €15 million for the restoration of religious buildings. In addition to these required funds, provinces and municipalities may also make supplementary grants on their own accord, which in 2001 amounted to about €13 million.

The Walloon Region

Statements released by the Walloon Region's Department of Heritage to the European Heritage Network stress the importance of equality in the protection of the Region's heritage properties. The Department seeks to preserve Walloon heritage properties based on their historic and cultural significance, not based on the status or economic resources of their owners. In 2000, the budget of the Department of Heritage amounted to approximately €33 million, €31.5 million of which is devoted to archaeology and monument restoration.³⁴

Tax Incentives

Under certain conditions, the owners of officially recognized properties can receive a tax deduction for their properties' development and maintenance costs. To qualify, the owner must be subject to the personal income tax, the property must not be rented out and must be made accessible to the public, and the work performed must be authorized and

³⁴ *European Heritage Network.*

conform to certain preservation standards. The eligible deduction will equal 50% of the costs of maintenance and development not already covered by subsidies. The maximum deduction is slightly less than €25,000 (VAT included).

Grants

Three primary pieces of legislation establish the financial role that the Walloon regional government plays in the rehabilitation of private heritage properties: a 1993 law providing subsidies for conservation work on listed monuments, a 1998 law making available subsidies for the restoration, valorization, and development of local heritage properties, and a 1999 law generally relating to the conservation and the protection of heritage.

The 1993 law subsidizes conservation work on listed monuments and sets the maximum amounts of government grants available for the restoration of Walloon heritage monuments, including 60% subsidies for most projects, 80% subsidies for certain projects in the public interest, and 95% subsidies for projects on monuments listed as “exceptional heritage of the Walloon Area.” 100 % of the costs of supplies and manpower are subsidized if the conservation work is carried out by the property owner or other volunteers.

The 1998 law granting subsidies for the restoration, valorization, and development of local Walloon heritage properties states that a maximum subsidy of approximately €6,000 can be granted for maintenance activities on these properties, and a subsidy of about €2,500 can be granted for activities that raise awareness of these local heritage properties.

The 1999 law relating to the conservation and the protection of heritage outlines the respective roles of the regional, provincial, and municipal governments in heritage preservation, and their responsibilities for supplying funds for heritage. It also gives scenarios of how governments could collaborate with building owners to fund the

restoration of Walloon Region heritage properties. Although this law gives possibilities for the ways that provinces and municipalities could fund heritage, it does not mandate specific rates of financial support, so the individual governments may therefore determine their own levels of cooperation.

2.4 Bosnia and Herzegovina

The State of Bosnia and Herzegovina has a historic buildings law that dates from 1986 and applies, where possible, to the entire nation. The nation is comprised of ten provincial cantons, each with its own separate tax laws. The canton capable of supplying the most stable and reliable information about its heritage incentive programs is the Canton of Sarajevo.³⁵ Owners of historic buildings there must perform repairs and property maintenance primarily at their own expense. If the costs of repairs exceed the income generated by the property, then the Canton will cover the expense. Bosnia and Herzegovina levies 10% inheritance and gift taxes, which are waived when a property is given to either a governmental body or a religious community.³⁶

2.5 Bulgaria

Bulgaria is a nation still transitioning from being a strongly centralized socialist state to being a democratic republic with a viable private sector and a market economy. During its communist period, the State was ultimately responsible for the preservation of all heritage property, but since 1990 the private sector has gradually claimed greater ownership and involvement in the preservation of the nation's cultural resources. Now, in a sweeping shift

³⁵ Sell, "Brief Note on Taxation."

³⁶ Ibid.

from communist days, individual private owners of historic monuments are primarily responsible for the maintenance and upkeep of their own properties.

Bulgaria's national budget includes funds for the preservation of immovable cultural monuments, which can be allotted in a variety of ways and for several different types of projects. The government's budgetary allotment for heritage projects in 2002 amounted to BGN450,000, of which BGN416,000 was allocated for monuments of worldwide importance, and BGN34,000 was allocated for monuments of national importance. Because of the still seriously strapped financial state of the Bulgarian government, monuments whose owners are able to provide some additional funding for their preservation have a better chance of receiving limited state preservation subsidies than those that do not.

Tax Incentives

Currently, Bulgaria makes only one tax concession for historic properties, stemming from the Local Taxes and Fees Act which states that listed national monuments are exempt from building taxes if they are not used for economic purposes. Bulgarian officials anticipate that additional incentives may be adopted in the future through the New Monuments of Culture Act. Drafts of this not yet enacted legislation have included provisions for additional financial incentives, including tax breaks for those who invest in and make donations to monuments, and low interest and interest free loans subsidizing their restoration and maintenance.

Grants

Bulgaria's Monuments of Culture and Museums Act requires monument owners to properly maintain their properties, and to finance all repairs and improvements. If

monument owners are not able to afford any urgently needed repairs or maintenance, then those costs can be supplied by loans from the municipality or the state secured by a mortgage on the property. Bulgaria's national Ministry of Culture began operating a National Culture Fund as part of the 1999 Culture Protection and Development Act (CPDA), as a means of raising money for the implementation of national cultural policies. The Fund is capitalized in a variety of ways (through fines, fees, donations, revenue from exhibitions, etc.), but there is no indication that it has or can be used to subsidize the preservation of privately owned heritage. The Fund provides capital for other preservation programs, most notably the "Beautiful Bulgaria" program which trains and employs jobless workers in projects to improve urban areas and tourist sites. Although the vast majority of properties aided by this program appear to be publicly owned, a few could be private property, including tourist facilities such as the "Kamburov Inn and Popnikolova House" in Elena, and a few houses identified only by their street address.³⁷ Between 1997 and 2003, the Beautiful Bulgaria program fully or partially refurbished 1,235 sites, 421 of which were listed monuments.³⁸

2.6 Denmark

Denmark, makes allowances for historic buildings with neither its VAT, nor its wealth, inheritance, or gift taxes, but a portion of building repair costs can be deducted from income based on a specific formula that assesses the property's rate of "decay per year" based on what type of heritage building it is. The government indexes these allowances to account for inflation and allows them to be claimed on future tax returns. In total, special

³⁷ Beautiful Bulgaria Project, <http://www.beautifulbulgaria.com/> (accessed 4-5-2005).

³⁸ Ibid.

tax deductions such as these supply Danish historic property owners with approximately 35 million DKK per year.³⁹

Historic buildings gain significant tax benefits through the suspension or reduction of property taxes,⁴⁰ resulting in a subsidy of approximately 90 million DKK per year.⁴¹ Roughly equivalent to the German and Austrian assessment formulas utilizing the notion of *einheitswert*, the Danish assessment unit known as “*ejendomsværdi*” can also result in reduced assessments and lower property taxes for older buildings.⁴²

Owners of listed buildings are also entitled to grants compensating them for maintenance and repair expenses exceeding the “normal” costs associated with non-listed buildings. A building’s rate of “decay per year” is used to calculate the value of its grant, ranging from 20-50% of the repair costs.⁴³ Direct subsidies for projects such as this total 65 million DKK per year.⁴⁴

Approximately 50 million DKK per year are spent on town and urban renewal, a portion of which goes directly towards building conservation.⁴⁵ The Danish government also offers special subsidies for the conservation of churches which total 18 million DKK per year.⁴⁶ In total, Denmark’s official preservation subsidies total 258 million £ per year.⁴⁷

³⁹ Hjorth-Andersen, Christian, “The Danish Cultural Heritage: Economics and Politics,” Discussion Paper, (Copenhagen: Institute of Economics, University of Copenhagen, 2004), 22-24, <http://www.econ.ku.dk/wpa/pink/2004/0433.pdf>.

⁴⁰ Sell, “Brief Note on Taxation.”

⁴¹ Hjorth-Andersen, “Danish Cultural Heritage,” 24.

⁴² c

⁴³ National Incentives Taskforce for the Environment Protection and Heritage Council of Australia, *Making Heritage Happen: Incentives and Policy Tools for Conserving Our Historic Heritage*, (Adelaide: EPHC, 2004), 16, <http://www.ephc.gov.au/pdf/EPHC/Making%20Heritage%20Happen.pdf>.

⁴⁴ Hjorth-Andersen, “Danish Cultural Heritage,” 22-24.

⁴⁵ Ibid, 24.

⁴⁶ Ibid, 22-24.

⁴⁷ Ibid, 24.

2.7 France

France's robust and extensive network of interrelated preservation incentives offers significant benefits to historic property owners and non-profits. Overall, the French government budgeted about Fr1.6 billion (€247 million) on monuments and heritage in 1998, consisting of Fr645 million (€98.3 million) for state owned monuments and Fr859 million (€131 million) for monuments not in state ownership, with the remaining funds going towards, archaeology, studies, and other costs.⁴⁸

Tax Incentives

France's most significant preservation tax incentives permit historic property owners to claim income tax deductions for maintenance expenses for their buildings. This deduction takes a number of forms, depending on the building's status and use, and how it has been designated. For buildings that have been neither listed as historic monuments, registered in the supplementary inventory of historic monuments, nor granted ministerial approval because of their historic or artistic characteristics, owner-occupiers may deduct not only restoration and maintenance expenses for the property, but also loan interest, property tax payments, and other expenses. The percentage of expenses that is deductible depends on the precise designation of the property. Registered or listed historic monuments that are open to the public can deduct 100% of their expenses, while such properties not open to the public can deduct 50%. Properties that have only been granted ministerial approval (a lesser designation that can only be given to properties that are open to the public) can claim a 50% deduction.

⁴⁸ *European Heritage Network*.

In instances where the registered, listed, or ministerially-approved building is rented out rather than owner-occupied, the owner may offset his property expenses against any rental income received. If these expenses create a net loss, the loss may be set against the owner's overall taxable income, without any restrictions. Rental properties that are not considered historic are also eligible for this concession; however, they are subject to restrictions. Typically, losses (excluding loan interest) may only be used to offset income from property over a ten-year period, and within a limit of €10,700 per year.⁴⁹

In cases where an owner does not occupy the historic building and the public may have access to it for an entrance fee, deductible expenses also include costs related to opening the building to the public. These owners can opt to deduct a fixed amount (set at € 2,290 for those properties with parks or gardens and €1,525 for those without) which requires no proof of his expenses, if such a deduction would not result in a loss.⁵⁰

In addition to these allowances for registered, listed, and approved properties, additional tax incentives are available for historic buildings located in designated conservation areas. The Malraux Act of 1962 allows owners of historic or aesthetically interesting buildings in these areas to deduct the costs of demolition, intensive exterior reconstruction, and residential conversion, if such activities are permitted by the area's conservation scheme. Membership fees paid to owners' associations founded as a part of such conservation schemes are also deductible. If a financial loss results from construction work conducted as part of a conservation scheme, any part of the loss not resulting from loan interest can be deducted from the owner's overall taxable income. But, this deduction

⁴⁹ French Senate's Division of Comparative Legislative Studies, "Taxation of Private Individual Owners of Old Buildings," memorandum, Appendix 2 to Council of Europe Parliamentary Assembly "Tax Incentives for Cultural Heritage Conservation," Document 9913, report from the Committee on Culture, Science and Education, (Strasbourg, France: Council of Europe, 2003).

⁵⁰ Ibid.

can only be collected if, within twelve months of completing the construction work, the owner leases the restored property unfurnished as a primary residence for a six-year term.

Owners of properties awarded the Heritage Foundation seal of approval (a relatively recent designation created for non-listed, unregistered heritage) may deduct some of their preservation project expenses from their taxable income. Eligible projects must be publicly visible, either from the road, or from the property itself if the building is non-residential and open to the public. If the owner has received grants for at least 20% of the project costs, 100% of his personal expenses are tax deductible, while only 50% of his own expenses are deductible if project grants equaled less than 20% of the project's total cost.⁵¹

In addition to these income tax incentives, a number of other tax concessions have been made to fund historic preservation. If a historic building's maintenance costs are particularly high, its assessed value may be lowered to reduce its owner's wealth tax liability. If the heir or recipient of a listed or registered monument makes it open to the public in perpetuity at a certain level of frequency (typically 80 days per year), inheritance or gift tax on the property can be abated.⁵² And finally, France assesses a greatly reduced VAT of 5.5% on repairs, maintenance, and professional services for dwellings more than two years old (the standard rate of VAT is 20.5%).

Grants

The French government also makes different types of restoration and maintenance grants, depending on whether the monument has been designated as being "listed" or "registered." Projects involving registered monuments can receive a maximum grant of 40% of certain eligible costs (usually equaling less than 20% of the total project costs); while listed

⁵¹ Ibid.

⁵² Sell, "Brief Note on Taxation."

monuments generally receive unrestricted grants equaling 40-45% of their total project costs.⁵³ Regional and local governments also supply significant amounts of funding for restoration projects conducted by non-profit organizations. Non-profits can typically expect to receive as much as 25-35% of their overall project costs from local and regional governments.⁵⁴

2.8 Germany

With policies similar to Austria in some respects, Germany operates on a federal system in which the national government passes legislation relating to heritage conservation, but it is primarily the responsibility of the individual federal provinces (Länder) to institute and implement, with different states employing different methods to select their protected heritage properties. There are an estimated one-million non-archaeological heritage properties in Germany, and between 1991 and 2002 (the post-reunification period), more than €1.9 billion were spent directly on federal heritage programs.⁵⁵ Because many heritage properties located within Eastern Germany emerged from the Cold War severely neglected after decades of perpetually deferred maintenance (in some extreme cases still sustaining unrepaired damage from World War II), only €100 million of that €1.9 billion was spent in Western Germany during this period.⁵⁶ In 2003, €125 million were budgeted as direct funding for heritage properties.⁵⁷

⁵³ Bonnie Burnham, "Heritage Conservation in the United States: Law as an Incentive for Private Initiative," in *Legal Structures of Private Sponsorship: International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997*, ([Munich]: ICOMOS, Journals of the German National Committee, 1997), 87.

⁵⁴ Ibid.

⁵⁵ *European Heritage Network*.

⁵⁶ *European Heritage Network*.

⁵⁷ *European Heritage Network*.

Tax Incentives: Income Tax

Sections 7h, 7i, and 10f of Germany's federal Income Tax Law (Einkommenssteuergesetz) establish policies which in 2001 indirectly provided €85 million for private heritage properties in income tax deductions for conservation expenses alone. Owners of non-income producing protected buildings may deduct 100% of their eligible maintenance and rehabilitation expenses from their taxable income at a maximum rate of 10% per year. To be eligible, the preservation project must be deemed necessary by the Department of Cultural Affairs, and owners may not receive any other tax benefit for the same project. Owner-occupied properties are eligible for this deduction not only if they are protected by provincial laws, but also if they have been locally certified by municipal authorities.

The costs of rehabilitation of historic buildings (designated at the local or provincial level) can also be depreciated on an accelerated basis of 10% per year over a ten year period. In comparison, non-designated buildings built before 1925 depreciate at an annual rate of 2.5% over 40 years. This accelerated rate of depreciation is also available to non-historically designated buildings located in urban redevelopment zones.

Expenses related to the maintenance of income-producing heritage properties are tax deductible, but rehabilitation costs are not. Tax authorities define rehabilitation costs as "those which lastingly enhance the value of the property, whereas other maintenance expenses relate to general upkeep of the building." Generally, building expenses not in excess of €2,000 would not be considered as rehabilitation.⁵⁸ Owners of protected rental properties also benefit from the ability to carry forward their maintenance deductions over a 2-5 year period, whereas ordinarily such expenses are deductible only for the year in which

⁵⁸ French Senate, "Taxation of Private Individual Owners."

the maintenance occurred. A loss for property tax purposes can be offset against other income and possibly carried forward for several years, but not in full when it exceeds €51,500.⁵⁹

Donations made for the conservation and restoration of architectural heritage are also tax deductible as broadly defined in the 2000 Law for Tax Relief for Foundations (Gesetz zur Weiteren Steuerlichen Förderung von Stiftungen) stipulated in the laws of the various Länder. The deduction for these donations cannot exceed 10% of total income. Tax expenditures resulting from donations to foundations, including heritage organizations, equal around €760 million per year. Some of the major heritage-related recipients of these donations include the German Foundation for the Promotion of Heritage Protection (Deutsche Stiftung Denkmalschutz), the German Federal Environmental Foundation (Deutsche Bundesstiftung Umwelt), the Wüstenrot Foundation (Stiftung Wüstenrot), and the Baden-Württemberg Heritage Foundation (Denkmalstiftung Baden-Württemberg) which focuses on the federal Land of Baden-Württemberg.

Tax Incentives: Other Taxes

In Germany, Federal law requires municipalities to excuse from property tax any building which holds artistic, historic, or scientific interest for the public if the costs of operating the building exceed its income.⁶⁰ This mandate gives municipalities little reason to recognize buildings in this way, so, in practice, historic property owners must present their municipalities with a certificate from the department of cultural affairs recognizing their eligibility for the exemption.

⁵⁹ Ibid.

⁶⁰ Ibid.

When heritage buildings are not completely exempted from property tax, their taxes may still be reduced. As in Austria, the valuation basis for property in Germany is *einheitswert*, which compensates owners for the additional restrictions placed on historic buildings by typically placing their property tax assessments at about 20% of market value.⁶¹

Historic buildings also enjoy exemptions or reductions on some other taxes, such as the inheritance and gift taxes. Some historic buildings qualify for a full exemption from these taxes, while others qualify for just 60% exemptions.⁶² Exemptions can be granted if conservation of the building is thought to be in the public interest and the property's expenses exceed its income. An exemption can be withdrawn if the building changes ownership within ten years, or otherwise fails to meet the necessary legal criteria. Properties are eligible for the full exemption if they have been made freely open to the public, are provincially protected, and have remained in the same family for at least 20 years. The 60% exemption requires that in addition to meeting the criteria named above, the historic building's owners have made the building accessible to researchers or other members of the public. Inheritance and gift taxes are also calculated using *einheitswert*, which can further reduce the tax on protected buildings by 5% and 10%.⁶³

For the most part, capital gains taxes on historic buildings sales receive no special considerations. However, if an owner has utilized a provision for accelerated depreciation, or any deduction for maintenance expenses, the improvement expenses calculated for the property will be reduced by the amount of the deductions already allowed.⁶⁴

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.

Grants and Loans

The Cultural and Media Affairs Commissioner and the Federal Ministry of Transport, Building, and Housing are the federal agencies primarily responsible for directly funding the government's many programs for heritage. Some funding is available to private property owners, while some programs are clearly directed at publicly or religious community owned structures. The Cultural and Media Affairs Commission administers the "Conservation of Cultural Heritage Sites of National Importance" program, the "Dach und Fach" maintenance program for Eastern Germany, the "Cultural Highlights in Eastern Germany" program, the "Culture in Eastern Germany" program, and the German National Committee for Monument Protection (Deutsche Nationalkomitee für Denkmalschutz.) The Federal Ministry of Transport, Building, and Housing administers the "Urban Architectural Heritage Protection in Eastern Germany" program which preserves historic city centers in Eastern Germany, and the "Historic Cities Support Program" which funds urban renewal and conservation throughout Germany. Few of the funds disbursed through these programs appear to be specifically earmarked for privately owned structures, perhaps because the extensive tax incentive system provides funds for those properties, and because the still distressed state of major public monuments in Eastern Germany has acted as a drain on finances for smaller, privately owned projects.

Subsidized Organizations

Federal and provincial money is used to support some private non-profit heritage foundations, such as the Baden-Württemberg Heritage Foundation, which has received up to €25 million from the Land per year. 45% of the heritage properties aided by this foundation

are privately owned, and another 25% are owned by citizens' action groups or other private associations.

Different levels of government also support private heritage non-profits through their sponsorship of national or provincial lotteries. Funding for monument preservation is collected from a specified percentage of the proceeds of several lotteries, including the national "GlucksSpirale" run on public television.⁶⁵ Since 1991, the national non-profit Protection of Monuments Fund has received money from the GlucksSpirale. However, these funds have not been adequate, and the oversubscribed fund could only approve one out of four grant applications in 1996. The total number of projects supported in that year included 68 town residences.

Provincial Programs

Many programs instituted or run on the federal level are administered or mirrored by the Länder and even municipal governments. Various Länder administer lotteries that benefit heritage, subsidize heritage non-profits, provide tax relief, and offer direct grants to private owners of heritage properties.

2.9 The Netherlands

The Netherlands has one of the most complete and multi-faceted systems for financing private heritage preservation in Europe, consisting of tax incentives, grants, loans, and publicly funded non-governmental organizations (NGOs) primarily based on the national level. Monument owners are well-represented by almost 350 NGOs, who are in

⁶⁵ Pohl, Karl Wilhelm, "The German Foundation for the Preservation of Monuments," in *Legal Structures of Private Sponsorship: International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997*, ([Munich]: ICOMOS, Journals of the German National Committee, 1997), 47.

turn each members of the National Contact Monuments Foundation (Stichting Nationaal Contact Monumenten). These organizations represent the needs and concerns of private owners and heritage agencies to governmental authorities. Many of the Netherlands programs have been created pursuant to the Historic Buildings and Ancient Monuments Act.

Tax Incentives

Owners of nationally-designated monuments can deduct some property expenses, such as repairs, maintenance, and replacement costs from their income taxes.⁶⁶ Property improvements and changes are not deductible, even if the changes replicate an original feature of the monument which has since been lost. Before tax-deductible work projects begin, the Tax and Customs Administration gives monument owners personalized estimates of possible deductible expenses in their project. If owners also receive a grant or subsidized loan for the project, then only the maintenance costs for which no subsidy was received are deductible. The total amount of the deduction is variable depending on whether or not the monument is the owner's primary residence. If it is the owner's primary residence, then in addition to the full deduction for project costs (minus any subsidy amount), depreciation and fixed owner charges such as taxes and insurance may also be deducted.

Monuments that are open to the public are exempted from wealth tax, and when monuments are given as gifts or bequests to certified social and cultural organizations, they do not incur inheritance or gift taxes.⁶⁷ The regular rate of VAT in the Netherlands is

⁶⁶ Belastingdienst Netherlands, "Als U Werkzaamheden aan Uw Monumentenpand Gaat Verrichted," ([Amsterdam]: Belastingdienst, 2001), http://www.belastingdienst.nl/common/dl/ib152_2002.pdf.

⁶⁷ Sell, "Brief Note on Taxation."

17.5%, but for painting and stucco work that is performed on dwellings over 20 years old, VAT is reduced to 6%.

Grants and Loans

The Department of Conservation (RDMZ) provides grants for 20-70% of maintenance and restoration costs to a pool of 48,000 eligible listed properties.⁶⁸ The value of the grant depends on the type of building and circumstances of the building work being carried out. Projects on houses can receive grants for as much as 50% of their costs, while churches and charities can receive as much as 70%. The budget for this program is large enough (approximately 80 million guilders in 2001/02) to allow a 70% success rate for applications, almost making it an entitlement grant program.⁶⁹

Subsidized Organizations

As mentioned earlier, many NGOs and limited partnership companies dedicated to historic building preservation exist in the Netherlands. Income derived from the activities of these non-profit organizations is used primarily to maintain historic buildings. Foremost among these government-sponsored non-profits is the National Restoration Fund, a private foundation established in 1986 by a government initiative, which receives an annual budget from the State, pays all the RMDZ's subsidies, and acts as a kind of departmental cashier. In addition to the national grant programs, the National Restoration Fund administers its own revolving fund which provides low interest loans and completely financed restoration mortgages. Eventually, the interest derived from these programs should allow the fund to

⁶⁸ EPHC, *Making Heritage Happen*, 38-39.

⁶⁹ *Ibid*, 11.

become largely self-replenishing, but currently it still fed by government subsidy.⁷⁰ Loans from the fund cover as much as 30% of eligible restoration costs, in addition to the 20-70% grants that monument owners are eligible for.⁷¹

Monumentenwacht (Monument Watch) is a simple but rather inspired organization represents a group of 11 regional non-profits with refreshingly pragmatic solutions to the need for ongoing monument care. A privately operated but government-funded heritage restoration, Monumentenwacht developed in the Netherlands in the 1970s, based on the idea that regular maintenance, rather than major rehabilitation or disaster remediation, should be the primary means of preserving heritage properties. Its goal is to prevent neglect and expensive damage to heritage properties by regularly inspecting them for common maintenance problems. Historic property owners buy subscriptions to their inspection services, and receive regular maintenance visits and reports by Monumentenwacht employees. In 1998, the service inspected 12,500 properties, including public buildings, industrial, farms, castles, and private houses. Low subscription fees are critical to the project's goals of encouraging regular low-cost maintenance among property owners, and about half of the cost of the entire project is provided the government on the national and provincial level.⁷² Considered highly successful, this program was later copied in Belgium (see above), and the possibility of creating UK and pan-European versions of the program have also been discussed.

⁷⁰ Netherlands Nationaal Restauratiefonds, "National Restauratiefonds" website, <http://www.restauratiefonds.nl/site/nl-nl/home/default.htm> (accessed 3-02-05).

⁷¹ Diedrick Van Asbeck, "Legal Possibilities of Organizing Sponsorship in the Field of Heritage and its Realizations in the Netherlands," in *Legal Structures of Private Sponsorship : International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997*, ([Munich]: ICOMOS, Journals of the German National Committee, 1997), 69.

⁷² Veronica Vaillancourt and Maryvonne Boucher, translated by Maryvonne Boucher, *Lightening the Burden: Taxation, Regulation and Heritage Property; Summaries of Conference Papers, The Heritage Canada Foundation Conference 1997 Annual Conference, October 16-18, 1997, Ottawa, Ontario*, (Ottawa, Canada: Heritage Canada Foundation, 1998), 11.

Municipalities

Dutch municipalities have the authority to designate properties to their own heritage registries; however, these buildings do not have the same entitlement to tax breaks and national subsidies that national monuments enjoy. Municipalities can provide their own subsidies and support for their designated monuments, but they have no obligation to do so.⁷³

2.10 The United Kingdom

In the UK, there are two primary (not mutually exclusive) classifications for protected historic buildings: scheduling (for the most significant, ancient monuments) and listing, which is conferred on more typical heritage properties based on a number of factors, including age. Listed buildings are formally chosen by the Secretary of State based on the advice of public national heritage agencies such as English Heritage (see below). Listed buildings are further subdivided into grades of I, II, or III (though these grades differ in Scotland and Northern Ireland). The primary administrative goal for scheduled monuments is complete protection, while for listed buildings the main emphasis is on continued use. In cases where a building is both scheduled and listed, the rules applicable to scheduling take precedence.⁷⁴

About 500,000 designated heritage properties and 8,600 designated heritage districts exist in England alone. A late 1990s study of these buildings indicated that nearly one-fifth were at risk because of neglect or disrepair, despite a wide variety of available subsidies. Only 6% of the buildings had made use of available repair grants for "buildings of outstanding interest."

⁷³ Belastingdienst, "Als U Werkzaamheden."

⁷⁴ French Senate, "Taxation of Private Individual Owners."

Tax Incentives

In the UK, huge amounts of heritage subsidies are generated through tax policies favorable to historic buildings, but unlike many other countries, for the most part those subsidies do not focus on income tax credits and deductions. Instead, most tax incentives are delivered through relief from VAT and capital taxes.⁷⁵ The areas in which heritage policy becomes involved in income tax law are primarily limited to charitable organizations, such as the National Trust, which are exempt from income tax and corporation tax. Charities are also exempt from insurance surcharges, and have the advantage of paying lower stamp duties.⁷⁶

Tax Incentives: VAT

The UK assesses the normal VAT rate of 17.5% for repairs and maintenance to historic buildings, however, protected dwellings, churches, and charitably owned buildings are exempt from paying VAT on some more intensive construction projects, such as approved alterations, improvements, reconstructions, and residential conversions. The residential conversions exemption extends to the sale or long-term rental of apartments created by the reconfiguration of a non-residential, protected building, such as a warehouse. To be eligible, the project must either get approval by the Department of Cultural Affairs on work equaling at least 60% of the project cost, or must preserve only the outside walls of the building. In some situations then, these VAT exemptions could act as a disincentive to preservation, since they support reconstruction rather than repairs, and conversions that

⁷⁵ Paul Kerns, "Monuments in the Law of Trusts," in *Legal Structures of Private Sponsorship : International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997*. ([Munich]: ICOMOS, Journals of the German National Committee, 1997), 23-24.

⁷⁶ *Ibid.*

retain none of the building's interior structure, possibly motivating owners to retain less than they otherwise would.⁷⁷

Fortunately, one VAT incentive does reward property owners for responsible ongoing maintenance, although it is a very specialized, temporary measure. Since 2001, a "Listed Places of Worship" grant scheme has allowed protected religious buildings to receive in grant aid a rebate on the amount of VAT paid on eligible repairs and maintenance. Although previously the scheme refunded only 12.5% of the VAT assessed for repair costs, it currently refunds 100%. The government's eventual goal is to charge no VAT on repairs and maintenance for listed places of worship, but currently doing so would violate existing European Union rules. The "Listed Places of Worship" Scheme is scheduled to continue until March 31, 2006, or until the EU rules are changed to allow for a VAT exemption, whichever comes first.⁷⁸

Tax Incentives: Inheritance Tax and Other Capital Taxes

The Inheritance Tax Act of 1984 established that the transfer of any qualified heritage property is potentially exempt from inheritance tax and capital gains tax (collectively called "capital taxes").⁷⁹ Qualification is determined by Her Majesty's Revenue and Customs, the Inland Revenue, based on the opinion of Government heritage advisory agencies. To obtain the exemption, owners must agree to care for and allow some level of public access to the property.⁸⁰ Exemption from capital taxes is also available in instances where qualifying heritage assets are transferred to government authorities, a university, a charity such as the

⁷⁷ French Senate, "Taxation of Private Individual Owners."

⁷⁸ United Kingdom Department for Culture, Media and Sport, *Listed Places of Worship Grant Scheme*, ([London]: Department for Culture, Media and Sport, 2003), <http://www.lpwscheme.org.uk/>.

⁷⁹ United Kingdom Department for Environment, Food, and Rural Affairs, *A Guidance Note on Environmental Stewardship for Heritage Properties Designated Under the Inheritance Tax Act 1984*, ([London]: Department for Environment, Food and Rural Affairs, 2005), <http://www.defra.gov.uk/erdp/pdfs/es/guidance/es-inheritance-tax-heritage.pdf>.

⁸⁰ Her Majesty's Revenue & Customs, *Tax-exempt Heritage Assets* database, <http://www.hmrc.gov.uk/heritage> (accessed 4-10-05).

National Trust, or to a trust established to provide maintenance funds for outstanding properties. Similarly, transfer taxes can be eliminated or partially reduced in situations where non-profit organizations buy, lease, or buy shares in a property. The value of these exemptions is considerable, as rates for inheritance tax in the UK can be as high as 40%, and the amounts of money and property donated to UK heritage non-profits are truly staggering. In 2001/02, donations to English Heritage totaled £654 million, while the following year, National Trust donations exceeded £3.3 billion.⁸¹

Grants

There are a great number of public and private heritage agencies and organizations in the UK, many of which are long established, and some of which have characteristics that blur the line between public and private, and non-profit and for-profit status. For example, the colossal non-profit National Trust also engages in for-profit activity, and although it is a private charity, it was created through a public legislative act, and has been given unique powers over its properties by the Parliament. A great many of these heritage organizations collaborate on projects and programs, and many trace their money to the same sources (much of it coming from the national government). For that reason, investigations into how much different heritage organizations contribute to different conservation programs has yielded some confused results, possibly because inconsistent definitions are used among different agencies or in different publications, and some programs or monetary amounts administered by several organizations may have been counted multiple times. The importance of these programs is, however, undeniable. The national government has reported to the Council of Europe that grants given by heritage organizations such as

⁸¹ EPHC, *Making Heritage Happen*, 10.

English Heritage usually fund between 20% and 95% of the total costs of rehabilitation projects.⁸²

The Heritage Lottery Fund is the largest heritage grant program in the UK, offering £742 million per year in England alone. For every pound spent on lottery tickets in the UK, 4.66 pence is allotted to the Fund. As of 2004, more than 9,000 discretionary grants had been made with Lottery Fund money, totaling over £2 billion. The grants are issued primarily for architectural conservation and urban rehabilitation in England, assisting with building repairs, conservation work, property acquisition and access improvements. To receive lottery funds, an organization that owns a significant building must obtain matching funds from other sources, and must either have professional conservators on staff, or have the funds to hire outside experts. The lottery fund covers a stock of 30,200 Grade I and Grade II listed buildings, and reports a success rate for applications of 62%, indicating an oversubscription ratio of only 1.6:1.⁸³

State funding for heritage in England is the responsibility of the Department for Culture, Media, and Sport, which fulfills much of its commitment through its sponsorship of a non-departmental public body known as English Heritage, established in the National Heritage Act of 1983. English Heritage receives most of its funding from the government, and with the remainder either donated by benefactors such as the Heritage Lottery Fund or the European Union, or earned from historic properties and other services. In 2002/03, its public funding was approximately £115 million, and its income from other sources totaled about £38 million. In 1997/98, English Heritage disbursed approximately £60 million to property owners for repair grants.⁸⁴ English Heritage-sponsored grant programs take a

⁸² *European Heritage Network*.

⁸³ EPHC, *Making Heritage Happen*, 17, 39; and Burnham, "Heritage Conservation in the United States," 88.

⁸⁴ *European Heritage Network*.

variety of different forms, including Heritage Economic Regeneration Schemes, grants to underwrite urgent works, Townscape Heritage Initiatives, the Joint Scheme for Places of Worship, different grants for London, Heritage Economic Regeneration Scheme (HERS) grants, and Conservation Area Partnership Scheme (CAPS) grants. CAPS Grants are provided through English Heritage to fund heritage projects that will encourage larger private-sector investment in cities, towns and villages. Recent research indicates that every £10,000 of English Heritage's investment leverages £48,000 in additional funding from public and private sector sources.⁸⁵

The success of two of these plans, the Conservation Areas Partnership Scheme (CAPS grants) and the Heritage Economic Regeneration Scheme (HERS grants) was evaluated by outside economic consultants in 1994 and 2002. They found that:

Conservation-led regeneration works...using the same indicators as those used by Government to measure the impact of regeneration programs, we found that our investment is achieving high economic returns as well as enhancing the fabric of our villages, towns and cities...but above all, conservation-led regeneration works because people like it and popularity brings prosperity.⁸⁶

Although English Heritage is by far the largest public heritage body in the UK, it has counterparts in Wales, Scotland, and Northern Ireland. Cadw, the official guardian of the built heritage in Wales received £10 million from the National Assembly in 1990/2000, of which about £3 million was provided in grant aid towards historic buildings and ancient monuments. Historic Scotland, the official guardian of the built heritage of Scotland, spent about £49 million on heritage in 1998/99, of which about £12 million was spent on properties assisted through the Historic Buildings Repairs Scheme. Northern Ireland's official heritage guardian, the Built Heritage directorate of the Environment and Heritage

⁸⁵ Ibid.

⁸⁶ EPHC, *Making Heritage Happen*, 17, 36, 39.

Service Agency spent about £5 million on monument maintenance, management agreements, archaeology, and historic buildings grants.⁸⁷

Subsidized Organizations

About 169 Building Preservation Trust revolving funds exist in the UK, ranging from small local organizations to national operations. Their primary source of funding is the Architectural Heritage Fund, an independent national charity and revolving fund with an endowment of £9 million. Between 1976 and 1998 the Fund financed 337 projects, making loans totaling £23 million to various trusts. Additional centralized financial support is provided by the UK Association of Preservation Trusts.⁸⁸ Charitable organizations such as these are eligible for a variety of tax concessions on income, inheritance tax, VAT, etc. (see above). By far the largest preservation trust in the UK is the National Trust, formally established by an act of Parliament in 1907. It is primarily concerned with the acquisition and management of land and buildings, but it can also acquire covenants over land, and enforce them against the property's owner or his successors in perpetuity. In 1997 there were 2.4 million members of the National Trust, making it one of the largest membership organizations in the world. Although it has special powers given to it by Parliament and acts as an advisor for heritage matters in the UK, it receives no government funding. It owns more than 1% of the property in The UK (excluding Scotland, which has its own equivalent), and continues to be the primary model for preservation trusts throughout the world.

⁸⁷ *European Heritage Network*.

⁸⁸ EPHC, *Making Heritage Happen*, 23.

Local and Regional Programs

In addition to this complicated matrix of public and private money, local and regional agencies also offer preservation funding for private owners. Some Regional Development Agencies provide grants to owners in rural areas. The agencies provide grants equaling 25% of the cost of converting or rehabilitating a building that is unused, or unsuitable for business use (to a maximum of £75,000).⁸⁹

The Local Heritage Initiative (LHI), a £10 million partnership between the Countryside Agency, the Heritage Lottery Fund, and the Nationwide Building Society, was launched in February of 2000 and will run for ten years. It provides grants between £3,000 and £25,000 for a variety of cultural projects, including caring for local landscapes or landmarks. In addition to these two nationwide efforts, individual local authorities may also decide to excuse charities from required local duties, such as property taxes.⁹⁰

⁸⁹ Ibid, 17.

⁹⁰ Kerns, "Monuments in the Law of Trusts," 23-24.

Chapter 3: Australia

With a federal structure similar to that of the United States, the Commonwealth of Australia has a minimal amount of organized governmental preservation activity on the national level, with much more fully developed incentive programs at the state and municipal levels of government. Unlike the United States, many of the national programs that do exist are temporary or pilot programs, which have start and end dates only a few years apart, or are cancelled not long after they have begun.

Tax Incentives

Since the year 2000, property given or bequeathed to an eligible nature-conservation organization has been exempt from capital gains tax.⁹¹ In addition, any taxpayer who donates property valued at AUD\$5,000 or more to a registered environmental organization may deduct the value of the donation from his income taxes. Deductions may be spread out over five years so that tax benefits are not lost when a donor's income in a single year is less than the value of the gift. Amendments to the tax law in October 2001 also allow owners to claim a deduction for any decrease in land value as a result of entering into a conservation covenant.

Unfortunately, heritage properties are not given the same treatment as natural lands in the tax laws. A register of cultural organizations to which tax deductible donations may be given does exist, but heritage properties are specifically excluded from the types of donations that are tax deductible. Donations to government heritage funds are also not tax

⁹¹ EPHC, *Making Heritage Happen*, 12.

deductible.⁹² Tax deductible heritage property donations can be made, however, to State and Territory National Trusts, prompting some State National Trust offices to conduct appeals on behalf of other registered organizations for churches, cemeteries and community buildings.⁹³ Recently, the Commonwealth agreed to enact a legislative definition of charity that would include "the advancement of culture" (including historic heritage), as a recognized charitable activity.

Between 1994 and 1999 an Australian tax incentive plan did exist, called "Tax Incentives for Heritage Conservation" (TIHC), but it was discontinued because of a perceived lack of success, and an overall policy shift against offering tax incentives. It offered a 20% income tax rebate to applicants performing rehabilitation projects, capped at a total of AUD\$2 million, and allowed applicants two years to complete the work and claim the rebate.⁹⁴ As it was not an entitlement program, owners needed to apply for the grant, and by its third year the program was oversubscribed at a rate of five applicants for every one rebate. The scrapped program was replaced by a new system of grant funding. A 2004 report by the National Incentives Taskforce for the Environmental Protection and Heritage Council recommended that the TIHC program be reinstated, with improvements, to provide taxpayers with the same level of heritage funding that existed in the late 1990s. The Commonwealth, however, does not support the reinstatement of the program, because, "(a) such schemes still require application-assessment processes and therefore may be more efficiently, effectively and transparently delivered through grant programs, and (b) grant

⁹² Ibid, 10.

⁹³ Ibid, 7.

⁹⁴ Ibid.

programs allow taxpayers funds to be better targeted at heritage conservation projects that are of highest priority.”⁹⁵

Grants

With extremely limited tax incentives, the majority of Australian heritage incentives come from direct grants and loans, at the national and the state/territory levels. Most grant and loan programs in Australia are oversubscribed, leaving property owners uncertain if their preservation projects will receive any funding. This uncertainty can diminish the impact of the grant, as fewer applicants take the time to make requests and fill out paperwork because they believe they will not receive funding. The State of Western Australia’s AUD\$1 million grant program was oversubscribed at an average rate of 7:1 for the years 1997-2001, and the number of applicants subsequently fell by over 50% in size.⁹⁶ The Australian Heritage Commission reported an oversubscription of 12:1 in the 1997/98 National Estates Grants Program, and the New South Wales Heritage Assistance Program is typically oversubscribed by 12:1.⁹⁷ Because oversubscription to this degree deters some owners from applying, the National Incentives Taskforce suggested that a suitable minimum amount of grant money would be AUD\$2.5 million for every 1,000 places on a state register, resulting in an oversubscription ratio of less than 3:1.⁹⁸

Created in 1999 after the demise of the TIHC program, the Cultural Heritage Projects Program (CHPP) is an ongoing program of grants that offered a total of AUD\$3.6 million in 2001/02. Funding is available on a competitive basis from the Commonwealth Department of the Environment and Heritage. 10-15,000 properties are eligible for the

⁹⁵ Ibid, 8.

⁹⁶ Ibid, 37.

⁹⁷ Ibid.

⁹⁸ Ibid.

grant, and 13% of grant applicants received the funds requested by their owners in 2001-2002.⁹⁹ Private owners, local government authorities, and non-profit organizations are all eligible to receive the grant which supports the conservation of listed places of national significance and the identification of indigenous places of significance.

Two temporary programs, the Rural Hotels Program and the Federation Fund briefly administered grants for specific purposes, but are now defunct. In 2001, the Rural Hotels Program offered AUD\$5 million in funds, with an applicant success rate of 36%. To be eligible, hotels needed to be more than 50 years old and have local historical significance. A 50% matching contribution was expected for any grant funding received. The Federation Fund operated from the late 1990s until the centenary celebration of Australia's federation in 2001, offering grants totaling AUD\$7 million and an applicant success rate of 5%. The goal of the program was to mark the Centenary of Federation through lasting infrastructure improvements. The program provided funding for a wide variety of heritage projects, including the conservation and adaptive re-use of some of Australia's most important historic buildings.¹⁰⁰

Introduced in 2003, the Distinctively Australian Program is operated by the Commonwealth Government to support the conservation of nationally significant historic, natural and indigenous heritage.¹⁰¹ The project's 2003 budget of AUD\$1.3 million is expected to be raised to AUD\$4.8 million in 2006/07.¹⁰² The Indigenous Heritage Program began being administered by the Department of the Environment and Heritage in 2004 after its original department, the Aboriginal and Torres Strait Islander Commission (ATSIC) was

⁹⁹ EPHC, *Making Heritage Happen*, 12.

¹⁰⁰ Australian Department of the Environment and Heritage, *Australian Heritage* website, "Environment Australia Annual Report 1999-2000" page, <http://www.deh.gov.au/about/annual-report/99-00/append4.html> (accessed 2-1-05).

¹⁰¹ EPHC, *Making Heritage Happen*, 13.

¹⁰² *Australian Heritage* website, "Grant Programs and Funding" page, <http://www.deh.gov.au/heritage/programs/index.html> (accessed 2-1-05).

dismantled. The project's 2005/06 budget of AUD\$3.3 million generates grants to support projects that identify, conserve and promote the Indigenous heritage values of places. These projects could consist of the conservation of places of Indigenous significance, but might not necessarily conform to standard Western models of rehabilitation projects. The program provides Indigenous organizations with up to AUD\$100,000 each, and individual Indigenous applicants with up to AUD\$5,000.¹⁰³

Other nationally-funded heritage programs exist, however they focus exclusively on heritage information and education (“Sharing Our Stories” program), or movable objects (the “National Cultural Heritage Account”), or other cultural projects outside the scope of this inquiry.

Subsidized Organizations

The Commonwealth government funds the Australian National Trust(s) at the Commonwealth and state/territory levels, but the government-sponsored funds equal less than AUD\$800,000 per year. The grants support activities that “increase public awareness, understanding and appreciation of Australia's cultural heritage; enhance and promote its conservation; and assist the Trust to advocate and work for the preservation and enhancement of the national estate.”¹⁰⁴ As mentioned above, the Commonwealth also indirectly subsidizes the National Trust by making it eligible to accept tax deductible donations.

¹⁰³ Ibid.

¹⁰⁴ *Australian Heritage* website, “Environment Australia Annual Report 1999-2000” page.

State/Territory Taxes

Although the Commonwealth's incentives are decidedly underwhelming, greater support for preservation is given on the state and territory levels. Legislation in most Australian states and territories (including New South Wales, Victoria, South Australia, Northern Territory, Queensland, Tasmania, and Western Australia) allows the values of heritage listed properties to be recalculated on the basis of actual use rather than 'highest and best' use, which can lead to a reduced land tax assessment.¹⁰⁵ In the Northern Territory, all owners of declared heritage places are entitled to property tax rate rebates equaling 75% for residential properties and 25% for commercial properties. In Victoria and Western Australia, the state heritage agency can grant land tax and rate remissions for places included in the register. However, the administrative procedures stipulated in the legislation are complex, and the tool has only been used in a limited number of cases.¹⁰⁶

State/Territory Grants and Loans

Every state and territory in the Commonwealth offers incentives for preservation projects with its borders, many of which come in the form of recurring grant or loan subsidies. In 2001/2002, grants for conservation work and/or survey and planning, ranged from AUD\$250,000 (Tasmania) to AUD\$5.2 million (Victoria). More specifically, most state Government heritage agencies operate grant programs for owners of registered heritage places. Western Australia's program for private property owners provided AUD\$1 million per year from 1997-2001 (now reduced), South Australia's program offered AUD\$250,000 per year, and Victoria's offered AUD\$300,000 per year. The New South Wales Heritage

¹⁰⁵ More complete accounts of Australian state and territory tax policies can be found in the Environment Protection and Heritage Council National Incentives Taskforce's 2004 policy document, *Making Heritage Happen: Incentives and Policy Tools for Conserving Our Historic Heritage*.

¹⁰⁶ EPHC, *Making Heritage Happen*, p. 6.

Assistance Program has been particularly generous, averaging AUD\$1.5 million in recent years.¹⁰⁷ In 2001/2002, applicants for New South Wales' grants enjoyed a success ratio of only 8%. Over 20,000 listed properties were eligible for the AUD\$1.5 million in funding. Victoria offered AUD\$4.5 million for 80,000 listed properties, and South Australia offered grants totaling AUD\$1.7 million for almost 6,000 listed properties, while Western Australia offered AUD\$500,000 for 16,000 listed properties, resulting in an application success rate of 12%.¹⁰⁸ Western Australia raises some of its grant money from the State Lottery, which disburses a fixed percentage of the profit from each lottery to several public programs and organizations, including a direct grants program for heritage.¹⁰⁹

The Western Australia Loan Subsidy program jointly sponsored by the Heritage Council of Western Australia, the Statewest Credit Society, and 18 local governments offers a variety of loan options, including personal loans, long-term secured personal loans, and mortgage-based loans. Funds of as much as AUD\$50,000 are lent by the Credit Society to approved borrowers for conservation work at a rate of 3% below the prevailing market rate. The 3% difference in interest is supplied to the Credit Society by the Local Government Association and Heritage Council. Most loans plans in Australia have been limited by the small amount of funds available, but subsidized interest programs such as this eliminate the need for large amounts of capital from government sources, and create more broadly-based networks for heritage financing. In several such programs, including one conducted by the Victoria Heritage Council, a small amount of money supplied by the government is used to leverage larger amounts of private investment.¹¹⁰

¹⁰⁷ Ibid.

¹⁰⁸ Ibid, 40.

¹⁰⁹ Ibid, 32.

¹¹⁰ Ibid, 19.

State/Territory Easements

Known as “heritage agreements” or covenants in Australia, the tax-deductible donation of preservation easements is possible in many states and territories. Run by the state or territorial government, this tool has been used extensively amongst conservationists since the 1970s. After the pre- and post- easement values are assessed by a licensed professional, individual or corporate heritage property owners may claim the reduction in the value of their property as a tax deduction, in exchange for their agreement that they will fulfill a certain obligation with regards to the property, such as never altering a prominent façade. The Heritage Council of Western Australia holds the greatest number of agreements, with around forty-six currently in place and an equal number being negotiated. Six heritage agreements are in place in South Australia, made possible under the Heritage Act of South Australia. Most of the restrictions put into place by the agreements have been successfully enforced, but in one case required conditions have not been met and the property has fallen into neglect. The state has not taken legal action because of the expenses that such proceedings would entail, and because of the negative publicity that might ensue. However, this case calls the utility of heritage agreements sharply into question.

Local Programs

Building on the strength of state and territorial incentive programs, local government offer a variety of grants and loans and tax concessions for heritage. In the State of Victoria, relatively large loan and/or grant programs exist in Melbourne, Greater Geelong, Manningham, and Moyne. Greater Geelong's program has provided over 50 loans since 1990 averaging AUD\$5,000 each. The Melbourne Restoration Fund is a larger loan plan established in 1988 with funding from the State Government, the City of Melbourne, and

the Bicentennial Program. Loans are repayable over five years for amounts less than AUD\$50,000, and over three years for amounts greater than AUD\$50,000. The interest rate is set at half of the prevailing Commonwealth Bond Rate (recently between 0% and 3%). Eight other local governments had small loan schemes, but in 2004 they were mostly inactive. In Western Australia, large grant programs exist in Kalgoorlie-Boulder and Perth, while AUD\$250,000 in loan money is available from the Western Australia Local Government Association, an affiliation of 18 local governments. South Australia has five grant programs, including a fund equaling AUD\$1 million in the City of Adelaide, by far the largest amount disbursed by any local government. The Adelaide Heritage Incentive Scheme has operated since the 1980s, offering owners up to AUD\$1 million a year in discretionary grants, with the maximum grant capped at 20% of the cost of a restoration project. Two local governments in Queensland offer grant programs, while in Tasmania, the only local government that had a loan or grant program was the town of Hobart, which offered AUD\$10,000 per year in grants, with an average award of AUD\$2,400.¹¹¹

The greatest numbers of local incentive programs operate in New South Wales, where about 70 rural local governments operate heritage funds. Part of the heritage funding programs provided for statewide use include significant amounts of money for locally-administered rural and regional programs. The AUD\$2.5million statewide Heritage Incentives Program has a particular focus on rural and regional areas. Two-thirds of all heritage spending takes place in these areas of the state; with up to AUD\$50,500 every three years made available to all rural councils. These funds are spent on heritage surveys, advisory services and local heritage funds, providing small grants and/or loans that are generally co-funded by the New South Wales Heritage Office. Total grants are typically not

¹¹¹ Ibid, 13-15; and Adelaide City Council, "Heritage Incentive Scheme (HIS)" webpage, http://www.adelaidecitycouncil.com/heritage/incentives_scheme.htm (accessed 1-15-05)

greater than AUD\$10-15,000 per year, while the total fund is generally less than AUD\$150,000. In 2001/2002 New South Wales had 67 local governments with preservation grant programs in place. One of those governments, Broken Hill City, also had a loan program. Broken Hill provides small loans of up to AUD\$15,000 over three years, with an interest rate which is half the prevailing commercial rate.¹¹²

Although tax incentives for preservation could legally be adopted by municipalities in Australia, the Environmental Heritage and Protection Council National Incentives Taskforce stated in a 2004 report that, “Local Governments in Australia have traditionally been reluctant to offer municipal rate abatements out of concern for erosion of their revenue base, and to a lesser extent because of concern at being seen to ‘play favourites.’” The taskforce advocated the adoption of incentives by municipal and state governments, noting that the strong multiplier effect associated with increased preservation activity could offset any loss of revenue.¹¹³

¹¹² New South Wales Heritage Office, *NSW Heritage Office* website, “Funding” page, <http://www.heritage.nsw.gov.au>.
http://www.heritage.nsw.gov.au/02_index.htm.

¹¹³ EPHC, *Making Heritage Happen*, p. 6.

Chapter 4: Asia

4.1 Japan

The Japanese national governmental body responsible for heritage is the Agency for Cultural Affairs (Bunkachoo). The Agency gives subsidies for structures, sites, living national treasures, groups of historic buildings, and other cultural resources that have been given a variety of special designations, ranging from "significant cultural property" to "a national register." Religious structures, if they are so designated, can also receive subsidies, and many shrines and temples do. Prefectural governments and some local governments also have similar programs that designate and subsidize cultural property. Compared to the United States, a high percentage of Japan's historic structures are undesignated, unprotected, and ineligible any subsidies, though the buildings that are subsidized are preserved to a very high standard. Unfortunately, many in Japan are under the impression that preservation cannot take place without financial help from the public sector, and a lack of government funds is often cited as a reason to allow a historic structure to be demolished.¹¹⁴

Tax Incentives

A considerable number of tax concessions to finance private historic preservation are available in Japan, but they are enmeshed in a highly complex set of rules, conditions, qualifications, and exceptions. Most of the benefits relate to the transfer of money and property earmarked for preservation, or the regular duties associated with property ownership rather than deductions or credits based on rehabilitation projects. Tax rules

¹¹⁴ Email from Chester Liebs, Professor at University of New Mexico, author of "Listing of Tangible Cultural Properties: Expanded Recognition for Historic Buildings in Japan," in *Pacific Rim Law & Policy Journal*, Volume 7, No. 2, 1998, dated 1-19-2005.

relating to the ownership or donation of cultural property vary widely, and are primarily based on the recognized status of the property, the donor, and the accepting body.¹¹⁵

Donations to public benefit corporations are tax deductible. Corporate donations to the State or to recognized public charities (including those dedicated to the protection of cultural heritage) are wholly tax deductible, while donations to other organizations are tax deductible up to $.5 \times$ (the amount of the donor's capital \times $.002$ + its annual income \times $.025$). For example, for an enterprise whose capital is ¥3 million and income is ¥1 million, donations up to ¥15,500 would be tax deductible. Tax benefits for donations by individuals are more restrictive. If an individual inherits an Important Cultural Property as a residence, he may claim a 60% deduction of the assessed value for inheritance tax purposes. If he inherits an asset and donates it to a public charity within six months, the donation is wholly tax deductible and free from inheritance tax. Other donations to the State or public charities are deductible up to a certain limit (donor's annual income \times $.25$ - ¥10,000). All other individual donations are not tax deductible at all. Outside of these situations, when an individual donates real estate or sells it at a fraction of its value, it is considered to be a regular market price sale.¹¹⁶

In 1998, the Japanese national legislature passed a law allowing non-profit organizations to incorporate, but donations to non-profits did not become tax deductible until 2001. To be eligible for tax-deductible donations, non-profits must meet a number of government criteria, for example, at least 80% of their total expenditures must be spent on non-profit activities, and more than one-third of total revenues must come from donations and grants. Because of these restrictions, the majority of currently incorporated non-profits

¹¹⁵ Bunkachoo (Japanese Agency for Cultural Affairs), *Administration of Cultural Affairs in Japan*, part I, "Building a Society that Values Culture," (Tokyo: Bunkachoo, 2004), <http://www.bunka.go.jp/english/2002-index-e.html>.

¹¹⁶ Toshijuki Kono, "The Public Benefit Corporation and Taxation in Japanese Law," in *Legal Structures of Private Sponsorship: International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997*. ([Munich]: ICOMOS, Journals of the German National Committee, 1997), 59-62.

are not eligible to receive tax-deductible donations,¹¹⁷ but their incorporation has had a major, mobilizing effect on the heritage sector of the Japanese economy. The Research Institute of Economy, Trade, and Industry (RIETI) estimated that in the year 2000, the market-based domestic production of non-profits whose activities focused on education, culture, and sports equaled ¥56.2 billion.¹¹⁸

Grants

The Law for the Protection of Cultural Properties administered by the Agency for Cultural Affairs mandates that conservation repair work on an Important Cultural Property is to be carried out by the property's owner. However, financial support to cover expensive repairs can be granted by the national government. The Agency for Cultural Affairs also provides subsidies for historic property owners to install or repair fire-prevention facilities and other required disaster prevention systems.¹¹⁹

In fiscal year 2001, the Agency for Cultural Affairs devoted ¥845 million from its total budget to subsidize owner-led conservation work on and disaster-prevention system installation for Important Cultural Properties. That same year, the Agency allotted almost ¥5 billion for projects that preserved and repaired historic sites, installed and maintained disaster-protection facilities, and placed a priority on public access to sites. Some of these projects included the "Comprehensive Development Project for Core Historic Sites in Local Areas" and the "Project to Promote the Servicing and Use of Historic Roads."¹²⁰

¹¹⁷ Japan Center for International Exchange, "New Tax Bill Gives Partial Victory to NPOs," in JCIE *Civil Society Monitor*, no. 6 (July, 2002). <http://www.jcie.or.jp/civilnet/monitor/6.html> (accessed March 30, 2005.)

¹¹⁸ Daisuke Takayanagi, Mutsuharu Takahashi, and Seiji Imase, "Quantifying the Economic Benefits of the Non-profit Organization in Japan – Setting the Non-profit Performance to the I-O Table (Summary in English)," RIETI Discussion Paper Series 02-J-010, (Tokyo: RIETI, 2002), <http://www.rieti.go.jp/en/publications/summary/02110004.html>.

¹¹⁹ Bunkachoo, *Administration of Cultural Affairs in Japan*, part IV, "Preserving and Utilizing Cultural Properties."

¹²⁰ Kono, "Public Benefit Corporation" 63.

Subsidized Organizations

Until 1998, Japanese law did not allow for the incorporation of non-profit organizations, only "public benefit corporations," dedicated to public interests such as religion, charity, and science, which must gain the approval of the Ministry of Finance and meet extensive criteria in order to incorporate. Approximately 230,000 public benefit corporations existed in Japan between 1994 and 1996. They are exempt from property tax, consumption tax, and resident tax, and any income generated by their public benefit activities is not taxable. If a public benefit corporation engages in activities that generate for-profit business income (roughly equivalent to "unrelated business income" in the United States), it must pay corporate income tax, but at a lower rate than is collected from for-profit businesses. As of 1997, the public benefit corporation income tax rate was 27%, while the for-profit rate was 37.5%. If a foreign corporation operating in Japan is judged to be equivalent to a Japanese public benefit corporation, the Minister of Finance may decide that it is eligible for the same tax privileges as a Japanese public benefit corporation.¹²¹

Local Programs

On the local level, all important cultural properties and historical sites are exempt from fixed asset taxes, special property taxes, and city planning taxes. Historic buildings that are in preservation districts can earn variable tax reductions on fixed assets taxes and city planning taxes, while residential buildings designated as registered tangible cultural properties receive reductions of up to 50% on fixed assets taxes.

Municipal grants for preservation are actually locally distributed national funding, and the grant process is not initiated by private property owners. Municipalities have the

¹²¹ Ibid, 59-62.

authority to designate certain local areas as “Preservation Districts for Groups of Historic Buildings” based on nationally-generated regulations. The national government can then classify the Districts of highest value as “Important Preservation Districts for Groups of Historic Buildings,” and is able to provide financial support to municipal preservation projects on those Districts. The national government can then also grant subsidies for the purchase and repair of listed Historic Buildings and Structures within those areas. Additional grants can be issued for improvements to non-listed buildings and structures in an attempt to harmonize the latter with the surrounding historical and natural features. The Commissioner for Cultural Affairs and Prefectural boards of education can also provide municipalities with grants to install risk-preparedness facilities where necessary.

4.2 Singapore

The primary public preservation incentive in Singapore is a program operated by the national Preservation of Monuments Board which allows tax deductible donations to privately owned, non-commercial monuments. To date, Singapore’s Preservation of Monuments Act has designated only 54 building, consisting of various religious, civic, institutional, and commercial structures. Perhaps because there are so few eligible properties, the “Tax Exemption Scheme for Donations to National Monuments,” established in 2002, takes a very hands-on approach, allowing owners to raise money, issue tax-exempt receipts for donors, and use the donated funds to perform restorations. Under this program, monument donors are entitled to a “double-tax exemption” (twice the donation value) for monetary donations made on or after 1 January 2002. The donated funds may be used for almost any aspect of the restoration project. Repairs to facilities surrounding the monument could be eligible for the funds, if “they form an integral part of

the concept and design of the monument, for example, the ablution area in a mosque. New extensions and repair work, for example, to toilets or kitchen, grass cutting and window cleaning, do not qualify.”¹²²

Specifically, the program permits the Preservation of Monuments Board to open a bank account for each monument for the deposit of all public donations, and provide owners with a receipt book for issuing receipts to donors. When a sufficient amount of donations have been confirmed by the bank and the Monuments Board, the work may commence and project costs begin to be released to the owner. Currently, six monuments have been enrolled in the program, all of them religious buildings. They are: Siong Lim Temple, St George's Church, Sri Mariamman Temple, Sri Perumal Temple, Abdul Gaffoor Mosque, and Thian Hock Keng Temple¹²³ Donations to the Preservation of Monuments Board are also fully tax deductible. In 2003, the Board received over SGD\$288,000 in donations.¹²⁴

4.3 Turkey

In Turkey, heritage properties are completely exempted from property taxes.¹²⁵ The Directorate for the Conservation of Cultural and Natural Heritage acts with a network of seventeen autonomous Regional Preservation Councils to decide what sites should be added to the national inventory and made eligible for tax exemption. The Directorate also approves the conservation of privately owned buildings. Autonomous users of state owned historical properties (such as universities, state offices, hospitals, municipalities, high schools,

¹²² Singapore Preservation of Monuments Board, Ministry of Information, Communications, and the Arts, “Tax Exemption Scheme for Donations to National Monuments in Singapore,” (Singapore: Preservation of Monuments Board, 2004), <http://www.mica.gov.sg/PMB-tax.pdf>.

¹²³ Ibid.

¹²⁴ Singapore Preservation of Monuments Board, Ministry of Information, Communications and the Arts, *Preservation of Monuments Board* website, <http://www.mita.gov.sg/aboutus/pmb.html>.

¹²⁵ EPHC, *Making Heritage Happen*, 6.

etc.) are responsible for their care, maintenance, and restoration. In 2002, there were about 60,000 registered immobile cultural and natural heritage sites that had been inventoried by the Directorate. Outside of Istanbul, those figures represented about 25,000 civic buildings, 5,500 religious buildings, 5,000 cultural buildings, 1,500 administrative buildings, 700 military buildings, 1,500 industrial and commercial buildings, 250 monuments, and 39 protected streets.¹²⁶

Foundations and associations, many of which own, are housed in, or are devoted to heritage properties, are granted public benefit status and are exempt from income tax and institutional tax. Donations to foundations are also tax deductible. The principal foundations and associations participating in heritage preservation activities in Turkey are:

- The Touring and Automobile Club of Turkey (TTOK), a public benefit association. The Club owns and inhabits a number of historic buildings that have been restored or rehabilitated. Organizational dues have been the main source of funds for the management of their buildings.
- The Foundation for the Protection of Monumental, Natural and Touristic Values of Turkey. Established by the Ministry of Culture and Tourism and focused mainly on Istanbul, it helped finance restorations of seafront houses on the Bosphorus, and Istanbul's the city walls.
- The Association for the Protection of Historical Houses of Turkey, an organization with "public benefit status." Established by scholars it focuses on raising public awareness through education, and does not deal with rehabilitation or maintenance.
- The Foundation for the Protection of Environment and Cultural Assets (ÇEKÜL), also an organization with "public benefit status." ÇEKÜL has been very active in providing technical instruction on historic house restoration all over the country, financially supporting the restoration and rehabilitation of Turkey's "most important group of monuments not belonging to the State."¹²⁷ Their projects are dependant on the donations they receive from the public.
- The Chamber of Architects of Turkey, a professional association and watch-group that helps creates public opinion and awareness.

¹²⁶ Turkish General Directorate of Preservation of Cultural and Historical Heritage, "Inventory of Registered Immobile Cultural and Natural Heritages and Sites at National Scale"

http://www.kulturturizm.gov.tr/portal/default_en.asp?belgeno=798 (visited 4-5-05).

¹²⁷ İlhan, Nezvati, "Legal Forms – National Approaches in Turkey," in *Legal Structures of Private Sponsorship : International Seminar on Legal Structures of Private Sponsorship and Participation in the Protection and Maintenance of Monuments, Weimar, Germany, April 17 to 19, 1997*. ([Munich]: ICOMOS, Journals of the German National Committee, 1997), 82.

Chapter 5: North and Central America

5.1 Canada

Tax Incentives

Like the United States and Australia, Canada is a nation that has few national programs encouraging historic preservation, but a variety of state and local incentives in place. Some national unity is provided by the Federal Tax Codes, which, unfortunately may tend to hinder preservation investment rather than encourage it. One area in which Canada's tax laws benefit preservation is the fact that donors who make monetary gifts to registered charitable organizations, including some heritage organizations, receive tax benefits in return. When buildings are donated to registered charities or municipalities, the donors can claim a tax credit or deduction for the donation. Corporate donors receive deductions, while individual donors receive tax credits equal to 17% on the first CAD\$200 donated in the tax year, and receive a credit of 29% on any part of the donation that exceeds CAD\$200.

Few donations of real estate are made in Canada, largely for tax reasons, because the federal government collects capital gains tax on donated real estate. Replacing an even more stringent capital gains tax policy, legal changes instituted in 1998 now allow donors to deduct 75% of the value of a heritage property donated to the national government or a charity against their net income. A 100% exemption from capital gains tax does exist however on certified movable cultural property.¹²⁸ Similarly, the national government's tax policies do not permit deductions for donations made as part of heritage property easements, although deductible easements may be made for nature conservation.¹²⁹

¹²⁸ Vaillancourt and Boucher, *Lightening the Burden*, 9.

¹²⁹ *Ibid*, 8.

Canada's Income Tax Act does not differentiate between heritage properties and any other real estate. The costs of rehabilitating or renovating any commercial property can be evaluated either as a current expense, which is deductible in the current filing year, or as a capital cost, which must be deducted over a number of years (in 1998 a 4% deduction per year was required). The question of whether a project is classified as a current expense or a capital cost is therefore very important to the funding of a renovation, but unfortunately no clear guidelines exist indicating how the Canada Revenue Agency will classify a project. In general, if work or intervention constitutes a "betterment" of the property, such as a replacement roof made of materials superior to the original, it must be capitalized. Routine maintenance such as painting or replacing floor coverings is usually considered a current expense. Many rehabilitation projects easily include both types of work, and because each case is treated individually, owners have little idea of whether they can count on the current deduction when they budget their projects, creating uncertainty, and a detrimental environment for preservation.¹³⁰

Perhaps the most serious detriment to preservation in Canada's Federal Tax Law is the terminal loss deduction on income tax. This rule "enables property owners to take a deduction on the depreciated value of a building at the time of demolition," giving an immediate tax benefit for building demolitions.¹³¹ The owner of a property can write off 75% of the depreciated value of the property upon demolition, which in itself demonstrates a worsening of an already regrettable situation, since before 1987 the write off was only 50%.¹³²

¹³⁰ Ibid, 16.

¹³¹ Ibid, 5, 13.

¹³² Ibid.

Grants

The federal government currently offers only one major grant program for heritage conservation, the Commercial Heritage Properties Incentive Fund. The program awards funds to corporations for the rehabilitation of eligible commercial buildings listed on the Canadian Register of Historic Places, covering 20% of total eligible costs, up to a maximum of CAD\$1 million. The building must be used commercially, or be made available for commercial use soon after its rehabilitation. The rehabilitation of the property must be of “substantial magnitude,” which is defined as either at least 50% of the most recent depreciated cost base of the property for federal income tax purposes (excluding land), or, in the case of a leased property, at least five years of net rent at the current rate at the time of application.¹³³ The overall goals of this three-year pilot program are to make heritage property investment more attractive to businesses, and to test whether or not the federal government would be interested in creating other incentive programs in the future. Recent recipients of the funding include the Chinese Times Building in Vancouver, the Gooderham and Worts Distillery in Toronto, and the Leader Building in Regina, Saskatchewan.¹³⁴

Provincial/Territorial Programs

The heritage policies in each Canadian province and territory are largely determined without federal restrictions or guidance. It has only been within the last few years that Canada has initiated any serious effort to compile a national registry of heritage properties, or create a uniform set of standards for rehabilitation, and this longstanding independence is reflected in the individual incentives available in the states and territories.

¹³³ Parks Canada, “Commercial Heritage Properties Incentive Fund” webpage http://www.pc.gc.ca/progs/plp-hpp/plp-hpp2a_E.asp (visited 4-10-05).

¹³⁴ Ibid.

Provincial and municipal governments in Quebec provide a variety of intermeshing tax incentives and grants to heritage property owners, which en masse inspire a multi-layered, flexible approach to encouraging heritage investment. This kind of collaboration exists between most provinces and municipalities in Canada, as it does in many states, counties, and towns in the United States.¹³⁵ Mutually funded by the province and municipality, rehabilitation programs here take place under the Provincial Residential Rental Building Program (PRILL) as a means of stimulating revitalization in larger neighborhoods and areas. Two small-scale PRILL revitalization projects took place in Drummondville, Quebec in the late 1990s. The first was a rehabilitation of three prominent vacant corner residential buildings, which was coordinated by Drummondville's Corporation rues principales (Main St. Corp.) The project required over CAD\$1 million in financing for the renovation of nine units. PRILL awarded over CAD\$80,000 in grants for the project and the City provided tax credits for three years. Ultimately the program was successful, and helped attract residents back to downtown. The second project in Drummondville was the renovation and modernization of a 1943 Art Deco movie theater, which PRILL money transformed into multi-hall cinema. Retaining one of the City's only examples of Art Deco, the renovation prevented the theater from relocating to the City's outer limits. After the renovation was completed, City tax credits helped make the project feasible for the re-inhabited building's tenuous first years.

In Nova Scotia, the provincial government provides owners of duly recognized, non-commercial heritage properties with a sales tax rebate of 53% on building supplies purchased to preserve their buildings.¹³⁶

¹³⁵ Vaillancourt and Boucher, *Lightening the Burden*, 8.

¹³⁶ EPHC, *Making Heritage Happen*, 11, 54; and Vaillancourt and Boucher, *Lightening the Burden*, 14.

Local Programs

Edmonton, Alberta, instituted its Heritage Tax Policy in 1988 as a part of its City Historic Resource Management Plan. The policy was instituted to compensate owners for a perceived decrease in their property values after historic designation, so all 438 of the buildings on the local historic register are eligible for the program's municipal tax rebates. The policy has encouraged the rehab of thirteen buildings, as the City spent CAD\$4.2 million to mobilize CAD\$58 million in private spending in construction, resulting in 2,800 jobs. Integrated with the larger plan, the City has a rehabilitation investment fund of CAD\$600,000, and annual appropriations to the fund may be carried over through multiple fiscal years.¹³⁷ The items eligible for funding are clearly defined, but no set formula exists for determining compensation, and each agreement is individually negotiated. Several levels of compensation exist. Level 1 responds to situations where the building's tax assessment encourages demolition, and is payable for up to five years. Level 2 is designed to lessen the problem of restrictive cash flow during rehabilitation, and provides a two year rebate on building and land tax assessments. Level 3 offsets possible property tax increases after rehabilitation with descending rebates over a five-year period. Level 3a allows payments for certain costs if taxes decrease after rehab. Other planning and zoning requirements can also be relaxed as a means of negotiating compensation, and property owners must sign maintenance agreements to get the funding. The City provides as much as 50% of the value of the preservation project either as a property tax rebate or as a grant (to a maximum level of CAD\$25,000¹³⁸ for residential properties and, CAD\$80-250,000 for commercial buildings).¹³⁹ CAD\$700,000 per year has been allocated for the incentives, and any unused

¹³⁷ Vaillancourt and Boucher, *Lightening the Burden*, 20, 54.

¹³⁸ Ibid.

¹³⁹ Ibid.

funds carry forward into the next fiscal year. Approximately ten projects are approved per year. One recent example was the circa 1910 Union Bank Building which has been converted into a bed and breakfast. The bank owner received about CAD\$206,000 in Level 3a compensation on a total construction cost of CAD\$1.8 million.¹⁴⁰

Since 1986 the City of London in Ontario has offered historic property owners interest free loans for conservation work to the exteriors of commercial buildings. The maximum value of the loans is CAD\$30,000, and they can be amortized for a period of up to ten years. The loans can also be transferred to a new owner of the property is sold. Not a loan program alone, the City also freezes a heritage property's tax assessment rate for ten years if it is restored, so that the value of the improvement to the property is exempted from taxes. In addition, the City also has a more general endowed grant fund, and an interest free loan program that makes loans for as much as CAD\$50,000 with a maximum repayment period of ten years.¹⁴¹

In July of 2003, the Vancouver City Council approved a five-year incentive program called the "Façade Rehabilitation Grant Program," to facilitate the conservation and rehabilitation of buildings in three historic neighborhoods: Gastown, Chinatown, and the Hastings Street Corridor. CAD\$2.5 million in total is available for the façade improvements. Each grant awarded will cover 50% of the costs of the rehabilitation project up to a maximum of CAD\$50,000 per principal façade (principal façades are defined as those facing a primary street). Buildings on the Vancouver Heritage Register are automatically eligible for the project, and more buildings may be added to the Register if they fit council criteria. Property owners must accept a covenant (easement) on the restored façade to receive their grant. This program integrates nearly every possible preservation incentive available to

¹⁴⁰ Ibid.

¹⁴¹ Ibid, 54.

create something that could be truly compelling and desirable for a number of property owners.¹⁴² In these same three neighborhoods, the City of Vancouver has also instituted a Heritage Building Rehabilitation Program which awards historic property owners property tax exemptions, and zoning density bonuses. The City hopes that these incentives will meet the “shortfall cost” of a major building upgrade. An affiliated Property Tax Exemption Program provides a 100% property tax exemption for up to ten years to cover the shortfall costs for a building upgrade. Applicants will be able to apply for this program only during its five-year pilot period (2003-2008).

In Quebec City, the Ministry of Culture and Communications has provided 25-50% reductions in assessment rates for an indefinite duration of time, (equaling CAD\$500,000 annually, partially subsidized by the provincial government) to help owners renovate historic properties.¹⁴³ In Victoria City, heritage buildings pay no property taxes.¹⁴⁴

5.2 Costa Rica

The small Central-American nation of Costa Rica has experimented with some tax incentives for historic preservation projects since at least 1997, when the Legislation for the Protection of Architectural Heritage was passed. Since then, the Ministry of Culture has allowed income tax deductions for donations and investments made for the preservation of cultural heritage, and improvements made by landowners to improve structures that have been declared historic.

The same legislation also stipulates that no land taxes or luxury taxes will be levied on declared historic buildings. In addition, no stamp tax is required for the approval of

¹⁴² City of Vancouver, Heritage Rehabilitation Programs web page, <http://www.city.vancouver.bc.ca/commsvcs/planning/heritage/incentives.htm>, (accessed 1-20-2005).

¹⁴³ Vaillancourt and Boucher, *Lightening the Burden*, 5, 54.

¹⁴⁴ *Ibid*, 6.

construction jobs involving such historic structures.

Chapter 6: South America

6.1 Brazil

Brazil's Monumenta Program, launched in 1999 by the Ministry of Culture, is an ambitious part of the nationwide "Plan to Advance Brazil," which has gained some additional funding from the Inter-American Development Bank and UNESCO. A unique program in Brazil's history, it was developed with the goal of creating sustainable conservation strategies for Brazil's historic sites on a national scale. The Monumenta program is now the largest ongoing cultural investment in the country, nearly equaling the budget of the entire Ministry of Culture. In its first five years, the program had a planned budget of US\$200 million, pursuing the goal of monument preservation on many fronts, including funding educational programs, training for craftsmen, intergovernmental programs, tourism, community initiatives, and building conservation.

The program was first implemented in a few cities, where local governments outlined preservation plans for key districts where heritage conservation and economic revitalization could take place, by restoring listed buildings, repairing infrastructure to halt building deterioration, and improving public spaces. The Monumenta program then granted the municipal government 80% of the project costs, and the improvements were implemented on public and privately owned buildings.

The program also provides direct incentives to private owners and users of historical sites, including a targeted credit program that finances the restoration of privately owned buildings at very low interest rates. In addition to these loans, low-income groups may also have at their disposal an additional line of credit to adapt houses into small commercial business buildings. Major corporations can get a 70-85% income tax deduction for their contributions to government approved cultural activities that take place in the revitalized

Monumenta project area¹⁴⁵ (whereas, outside of the Monumenta program, Brazilian Federal Law (Lei Rouonet) only allows 40% tax deductions for corporate donations to approved cultural programs, equaling no more than 5% of their total tax debt.)¹⁴⁶

In exchange for the project money, the municipality commits to establishing a 20-year Preservation Fund to pay for maintenance of federally listed buildings which cannot generate enough income to be self-sufficient (such as churches and public office buildings). The newly established Restoration Fund then signals a way for the benefits of the project to continue into the future. The agreement between the Monumenta fund and the municipality stipulates a variety of ways in which the fund should be replenished, including through increased revenues from property and commercial service taxes from the revitalized project area. The fund can also be replenished through the repayment of credits made available to the private sector, since amortization and interest from the credits can be deposited into the fund and made available for reuse. Private owners can also rent out or allow usufruct in their newly renovated properties, which would generate revenue, some of which could go back to the Preservation Fund. The sizes of the resulting Restoration Funds are therefore dependent on the success of the initial project.¹⁴⁷

6.2 Paraguay

Paraguay's Culture and Tourism Fund (FONDEC) was instituted in 1998 to finance and promote private cultural activities in all of the nation's territories. The Fund sponsors

¹⁴⁵ Arthur Darling, "Brazil's Monumenta Program: Sustainable Preservation of Historic Cities," in Serageldin, Shluger, and Martin-Brown, *Historic Cities and Sacred Sites: Cultural Roots for Urban Futures*, (Washington, DC: The World Bank, 2001), 196, http://www-wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000094946_01011905315341.

¹⁴⁶ Carlos Alberto Vieira, "First Synagogue in the Americas: Kahal Kadosh Zur Israel Synagogue in Recife," in Serageldin, Shluger, and Martin-Brown, *Historic Cities and Sacred Sites: Cultural Roots for Urban Futures*, (Washington, DC: The World Bank, 2001), 127, http://www-wds.worldbank.org/servlet/WDS_IBank_Servlet?pcont=details&eid=000094946_01011905315341.

¹⁴⁷ Darling, "Brazil's Monumenta Program," 196.

culture and heritage by providing financing, some of which does need be repaid and some of which does not, for the acquisition of cultural goods and other cultural investments by private individuals. These investments could include building acquisition costs, construction, reconstruction, or repair costs, or the acquisition of machinery, equipment, and intangible assets that affect artistic and cultural activities.

The fund was created through an initial investment of PYG 2.5 billion from the state, and is capitalized through annual contributions from the National Treasury. The fund is also replenished through tax-deductible donations, investment of its own funds, and income garnered through the repayment of loans and sales of resources that it helps to finance, creating a revolving fund in some respect. Donations will be deductible from the Rent Tax to a maximum of 5% of the net rent paid, and sponsorship funds will be deductible from the Rent Tax to a maximum of 4% of the net rent paid. In certain cases, and with executive permission, these percentages can be increased. In addition, any public events, raffles, drawings or other public fundraising performed by FONDEC is exempt from municipal taxes.¹⁴⁸

The creation of FONDEC builds on a fairly strong commitment to legislate and fund heritage properties in Paraguay. In 1982, the national government passed a law for the “Protection of Cultural Goods,” which granted tax exemptions to the owners of properties registered as cultural heritage, and advanced other legal measures to promote private sector involvement in culture. These measures include special funding and tax incentives for organizations that fund cultural projects and heritage preservation programs. Since that time, “objects, publications and activities that are of significant value for cultural

¹⁴⁸ The Paraguayan National Congress, *Paraguayan National Law No 1.299/98, the Creation of the National Culture Fund (FONDEC)*, online resource available at *Legislacion para Todos: Ampila Recopilacion de las Distintas Disposiciones Legates del Paraguay* website, http://www.leyes.com.py/todas_disposiciones/1998/leyes/ley_1299_98.htm.

dissemination and education” have also been exempted from national and municipal taxes.¹⁴⁹ In 2001, the Patronage Law (Ley de Mecenazgo) was passed to stimulate and encourage private sector participation in the funding of cultural projects, particularly the promotion, protection, preservation and growth of cultural heritage.¹⁵⁰ However, despite these advances, Paraguay’s system of cultural incentives is not as strong or stable as some might hope. In 2002, Oscar Centurión Frontanilla, the Cultural Attaché at the Embassy of Paraguay in Washington, DC wrote that, “due to the inadequacies of these laws and the fragility of the present tax system, in addition to the difficulties encountered in carrying out general tax reforms, greater attention must be paid to this issue [of financing cultural heritage].”¹⁵¹

¹⁴⁹ Oscar Centurión Frontanilla, Oscar, “Funding Culture in Paraguay,” in International Council of Museums, *ICOM News* 55, no. 3, (2002), “Tax Incentives,” 4, http://icom.museum/tax_incentives.html.

¹⁵⁰ Ibid.

¹⁵¹ Ibid.

Chapter 7: Africa

7.1 Overview

An examination of reports on and descriptions of African heritage programs, such as the report from the African Cultural Heritage Organization's seminar entitled Legal Frameworks for the Protection of Immovable Cultural Heritage held in Mutare, Zimbabwe in October, 2002, which included participants from Botswana, Gabon, Kenya, Mauritius, Namibia, Nigeria, South Africa, Tanzania, Uganda, Zambia, Zimbabwe, and ICCROM (International Centre for the Study of the Preservation and Restoration of Cultural Property, Rome) Africa, unfortunately indicates that, for the most part, stable, government-sponsored heritage incentives currently do not exist in those nations, largely because their governments lack the legal frameworks and funds to support such programs. With the exception of South Africa, Sub-Saharan nations seem to be currently focused primarily on inventorying heritage properties, creating or updating formal legislation regulating heritage properties, forming statutory bodies and organizations responsible for heritage protection, and cultivating a body of trained professionals to manage and care for significant properties. Much of the heritage legislation currently in place in Africa dates back to the period of European colonization, and does not reflect the social and cultural values of contemporary African societies, or even growing international awareness of the importance of widespread community participation in defining and protecting cultural heritage. Many of the laws currently in place urgently need revision because they reflect outdated Western, academic, monument and date-centric concepts of heritage preservation which do not reflect traditional customary laws that are better understood and more frequently observed by local citizens. Several presenters at the Mutare conference recognized that incentives could be a powerful tool in fostering community-initiated preservation projects while conserving scarce government funds, but

stated that legal frameworks currently in place were not capable of stably accommodating such systems. Ultimately, recommendations were formed at the conference that recognized the necessity of allowing local communities to derive socio-economic benefits from heritage resources, expressed interest in finding models and case studies to develop programs, and expressed interest in developing incentives. Several working groups within the conference recognized the importance of "empower[ing] ordinary people to look after their own heritage,"¹⁵² and felt confident that culture could be a resource that contributed to Africa's ongoing development.

7.2 South Africa

In 1999, South Africa passed a major new piece of legislation governing heritage protection and programs within the nation. Among other things, the National Heritage Resources Act (No. 25 of 1999) created a new national body responsible for the protection of South Africa's cultural resources, the South African Heritage Resources Agency (SAHRA), and a new major program of financial assistance for heritage projects. The National Heritage Resources Fund (NHRF). The Fund provides grants and loans to organizations and individuals for projects that contribute to the conservation and protection of South Africa's heritage properties. With few conditions or exceptions, the public may apply to SAHRA for a grant for any project that meets that purpose. Reflecting the goals of community empowerment and involvement advocated by the Mutare conference, the government's official language announcing the Fund states that one of its major goals is that:

Through training and through projects which encourage the participation of members of communities in management and decision-making, community

¹⁵² African Cultural Heritage Organization, *Africa 2009 - 3rd Regional Thematic Seminar: Legal Frameworks for Protection of Immovable Cultural Heritage 2002* ([Mutare]: African Cultural Heritage Organization, 2003), <http://www.icrom.org/africa2009/common/reports/zimb02.pdf>, 20.

organisations will be empowered to contribute to the conservation of the national estate.... Projects must attempt to address the needs of marginalised communities by providing training to members of these communities, so that they are empowered to contribute to the maintenance, management and promotion of the national estate. Projects must encourage the participation of affected communities in management and decision-making, thus promoting the active participation of society in the conservation of the national estate.¹⁵³

Neil Fraser, the Executive Director of the Central Johannesburg Partnership, a non-profit company dedicated to the revitalization of the inner-city of Johannesburg, has first-hand knowledge of SAHRA's method for selecting grant recipients. Mr. Fraser believes that although the Fund does provide needed assistance for heritage projects, the process by which sites and projects are selected is "extremely lengthy," and regarding his own grant application, SAHRA instead recommended applying to other public and private sources whose funding might be more accessible and efficiently distributed.¹⁵⁴

The South African national government also offers funds directed specifically at urban heritage projects through Urban Development Zone (UDZ) tax incentives, a new program offered through a 2003 amendment to South Africa's tax laws. UDZ incentives are administered by the South African Revenue Service (SARS), and offer every taxpaying, property-owning, individual or entity the right to claim tax allowances for the refurbishment of existing property or the creation of new developments within the inner-city. The allowances permit eligible entities to claim an accelerated depreciation of their investment over a period of five, or seventeen years. The UDZ incentive encourages more inner-city private sector investment than would be possible otherwise, and makes redeveloping of existing buildings more attractive potentially worthwhile option for property owners.

¹⁵³ "South African Heritage Resource Agency, *South African Heritage Resource Agency* website, "National Heritage Resource Fund" webpage, <http://www.sahra.org.za/heritage.htm>.

¹⁵⁴ Email from Neil Fraser, executive director of the Central Johannesburg Partnership (CJP), an inner city renewal initiative, dated 1-21-2005.

Aimed at encouraging urban renewal, the inner-city of Johannesburg is the largest UDZ in the country, and the city government plays a role in administering the program. Any investor must be certified by the city in order to qualify for the incentive, and when the refurbishment is complete, the investor submits his city certification and tax return to SARS to receive the depreciation allowance. Mr. Fraser states that while this incentive is not specifically directed at heritage properties, and only two cities have qualified for the incentive thus far (Johannesburg and Cape Town), “we are hoping that it will be a catalyst for some heritage restoration and are working on promoting its use.”¹⁵⁵

¹⁵⁵ Ibid.

Chapter 8: Conclusions

The conclusions that can be drawn from the information presented herein are manifold. Just as the activities, words, and social interactions of an individual offer insight into his thoughts, values, worldview, and ideas about his role in the social fabric that surrounds him, so do a society's preservation policies reveal its beliefs about its own history, and the relative value that is placed on different aspects of that history. The role that incentives play in preservation policies speak directly to this idea of social values, as incentivizing a behavior in some fashion is the clearest possible social method of recognizing its worth. Each of the national programs outlined here reveals a unique attempt at sorting out the overlapping and intersecting duties of heritage guardianship and responsibility as they are viewed in a particular society, a topic that is inextricably tied to larger questions such as *What is my heritage? Is it national, or is it local, or culturally based?, Is it intrinsically mine, or is it something that the government allows me to have, or compels me to defend?*

The divergent modes of governmental preservation spending illustrated here clearly provide such insights into the beliefs, values, and economic precepts that inform the society. For example, many programs in Australia are temporary or pilot programs, which have start and end dates only a few years apart, or are cancelled not long after they have begun. This type of approach is indicative of a "spot-fixing" mindset, which is not reflective of the fact that preservation is an ongoing activity, and heritage properties require maintenance and funding on an ongoing basis, not simply when, for example, the government briefly sends out a cattle call for preservation projects dealing with a narrow category of buildings (as was seen in the now-defunct grant program for rural hotels). These programs treat preservation like a special event, rather than an ongoing and necessary part of the lifecycle of a building. At the opposite end of the spectrum from this approach are programs such as

Monumentenwacht in the Netherlands and Belgium, which not only provide funding and attention for heritage properties on an ongoing basis, they do so as a form of preventative care before problems even become apparent. A parallel observation can be made about nations whose incentives consist primarily of tax policies, which are predictable, ongoing, as-of-right measures integrated with their national body of law, as compared with nations that primarily facilitate private heritage property preservation through grant programs, which are more variable and give governing bodies greater control over what resources deserve to be preserved. Future researchers would benefit from a detailed study isolating the relative economic costs and benefits of these contrasting patterns of preservation expenditure.

Many programs outlined here offer excellent insight into what foreign governments are doing to advance the cause of heritage preservation among private citizens, but some of these policies may instead serve as a cautionary tale, illustrating mistakes that other governments and preservationists could learn from. One such instance can be seen in the Austrian Rent Law, which unwittingly incentivized neglect and absentee landlordism. In many other cities, heavy rent controls such as those imposed in Austria have also acted as a financial disincentive to private investment in heritage properties, strongly suggesting all governments seeking to implement rent controls as a means of advancing the necessary social good of providing affordable housing, should also be mindful that the negligible profits generated by some rent controlled properties can undermine the ability and desire of landlords to responsibly care for and improve their properties.

Other patterns emerge in this research regarding how different quantities of funding can affect heritage properties, since in many parts of the world, projects are under funded not because of a lack of interest in heritage, but because of extreme poverty. When heritage preservation is inadequately funded for an extended period of time (as it was in East

Germany during the Cold War, and as it is now in many developing countries), the deterioration and neglect that result can be more long-lasting for privately owned monuments than for those which are publicly owned. When funds do become available, they are spent on the heritage resources judged to be the most significant, the highest profile, and the most in need: the resources whose rehabilitation will likely yield the greatest public benefit. This formula, while completely logical and justified, almost always results in the rehabilitation of government owned, public buildings and sites, and the continued deferral of necessary preservation for private heritage resources. This pattern can currently be seen in Germany, where crisis-management efforts responding to the neglect suffered by the East during the Cold War are still ongoing, and have hindered the nation's development of direct preservation subsidies aimed at private property owners. These smaller, more commonplace properties, such as farmsteads, houses, and city shops, do however constitute the lion's share of existing heritage resources and contribute essential information toward truly understanding any culture.

Though these programs represent only a fraction of the heritage incentive programs implemented worldwide, they do represent a significant cross-sample of the various tax benefits, grant and loan subsidies, and public-private partnerships sponsored by governmental bodies that assist the world's privately owned heritage properties. When viewed in total, this body of information could be significant to government officials, heritage advocates, and internationally-active preservation professionals, because in addition to acting as a guide map to existing programs and sources of information, these descriptions could offer insight into what programs might be possible in locations where they are not currently in place. Just as several heritage incentive programs described herein represent ingenious modifications of programs originally established in the United States and the UK,

they in turn can become models for other burgeoning incentive programs in other parts of the world.

Appendix A: Relevant Currency Values

The figures below equal past and present currency values as compared to the U.S. dollar. Unless otherwise noted, all values come from the “Universal Currency Converter” website, www.xe.com.

- 1 euro (EUR, €) = 1.2682 USD (as of 4-29-2005).
- 1 Belgian franc (BEF, ₣) = .03189 USD (Fixed rate. Legal tender ended 2-28-2002).
- 1 Australian dollar (AUD, \$) = .78062 USD (as of 4-29-2005).
- 1 British pound (GBP, £) = 1.9080 USD (as of 4-29-2005).
- 1 Bulgarian lev (BGN) = .65813 USD (as of 4-29-2005).
- 1 Danish kroner (DKK, DKK) = .17283 USD (as of 4-29-2005).
- 1 French franc (FRF, ₣) = .19607 USD (Fixed rate. Legal tender ended 2-17-2002).
- 1 Japanese yen (JPY, ¥) = .00954 USD (as of 4-29-2005).
- 1 Paraguayan guarani (GS, PYG) = .00016 USD (as of March 10, 2005)*
- 1 Dutch guilder (NLG, f) = .58353 USD (Fixed rate. Legal tender ended 1-28-2002).
- 1 Singapore dollar (SGD, \$) = .61072 USD (as of 4-29-2005).
- 1 Canadian dollar (CAD, \$) = .79351 USD (as of 4-29-2005).

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