Market insights on Community Development

Legislative Update | April 21, 2014

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Affordable Housing 2015 Legislative Update

Industry Leaders Discuss the Up-to-Date Legislative News from the Hill

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Agenda

1. Introduction
2. Webinar Mechanics
3. Topics
   I. Michael Murphy - Update from Last Year / Tax Code / GSE Reform
   II. Steve Wallace – All Matters HUD
   III. Glenn Miller – LIHTC Matters
4. Q&A – AskCitiCommunityCapital@citi.com
5. Closing Remarks

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Your Webinar Host

Mark Dean

Citi Community Capital, National Production Manager

Citi Community Capital

Mr. Dean has over 27 years of experience providing investment banking and mortgage banking services to real estate developers and corporate sponsors. He specializes in financing multifamily housing using Private Activity Bonds, both enhanced and unenhanced, for public housing authorities, affordable housing developers, and senior housing providers. Mr. Dean works with both for-profit and not-for-profit organizations to finance projects such as affordable housing developments, senior living facilities, and market rate housing.

Mr. Dean has provided acquisition, construction and permanent financing for a wide variety of multifamily housing, senior housing, not-for-profit facilities. In addition to these types of financing Mr. Dean has executed current, advance and taxable refundings of existing bond and real estate debt. His experience includes both public offerings and private placements. His broad range of experience with loan products and debt credit enhancements includes conventional financing vehicles as well as bond insurance, contingent loan agreements, FHA mortgage insurance programs, GNMA MBS, Fannie Mae MBS, letters of credit, and collateral pledges. In addition, Mr. Dean is an expert on the use of low-income housing tax credits to finance multifamily apartments.

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From Katten Muchin Rosenman

Michael Murphy

Partner

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Michael P. Murphy represents clients in all aspects of structured finance with an emphasis on public finance and project finance transactions. He devotes a significant portion of his practice to affordable multifamily housing finance, transportation finance and public-private partnership transactions.

In his public finance practice, Michael represents government-sponsored enterprises and other financial institutions that provide credit enhancement and liquidity facilities, private equity funds, investment banks and owners of facilities financed with tax-exempt bonds, including 501(c)(3) charitable organizations. He advises parties in financings involving multifamily housing, senior living facilities and public facilities. He assists clients in the establishment of national programs involving complex and unique structures.

In his project development and structured finance practice, Michael participates in transactions involving interstate highway systems, seaports and energy projects and transactions secured by commercial and multifamily mortgages, single-family mortgages and tax-exempt bonds. The related securities have been sold as private placements, Regulation S offerings and 144A offerings, as well as public offerings of registered securities under the Securities Act of 1933. Michael has extensive experience with subordination agreements, guarantees, letters of credit, insurance policies, government-sponsored guarantees and derivative products.

From Katten Muchin Rosenman

Glenn Miller

Partner

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Glenn Miller brings a creative, problem-solving approach to the tax issues present in a wide range of domestic and international transactions and controversies, including taxable and tax-free acquisitions and dispositions, financing structures (both taxable and tax-exempt), and post-transaction tax planning affecting both buyers and sellers. He has particular experience with structured finance and securitization transactions and transactions involving investments by pension funds, real estate investment trusts (REITs) and tax-exempt organizations in real estate and other income-producing assets.

A nationally known authority on affordable housing and historic tax credits, Glenn has substantial experience in the taxation of mixed-use affordable housing projects. He created a tax structure that permitted the first practical syndication of a so-called “80-20” mixed-use low-income project—a structure that is now used in transactions across the country. Glenn also was the primary creator of the “Sub-50 Recycled Bond Structure”—a volume-cap efficient tax-exempt bond structure that is in wide use by the major housing agencies in New York City and New York state. He regularly meets with the Internal Revenue Service on affordable housing issues and has authored or participated in a number of groundbreaking private letter rulings in the tax-exempt bond, real estate investment trust (REIT) and low-income housing tax credit fields.

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From Nixon Peabody

Stephen Wallace

Partner

Stephen Wallace is the leader of the firm's Affordable Housing practice and one of the nation's foremost authorities on the preservation of government-assisted housing. He has been very closely involved in the legislative and regulatory development of the various federal affordable housing preservation programs over the past 25 years.

Much of Stephen's work involves helping clients refinance, rehab and preserve the affordable housing stock to increase its value and long-term viability. There are a variety of mechanisms that can be used to do this, from mark-up-to-market of Section 8 contracts to Section 236 IRP decouplings (and now re-decouplings) to HUD's signature initiative, the Rental Assistance Demonstration program. I was part of the successful effort to have HUD approve post-rehab rents effective at loan closing for certain types of financing. Owners and purchasers of older HUD-assisted properties turn to me for advice on addressing complex transactional and regulatory matters.

Stephen is in close contact with HUD officials as they work together to decipher the fine print of affordable housing legislation and get preservation deals done. Sometimes these issues take Stephen to Capitol Hill or state housing agencies as well to seek clarification or resolution of critical preservation issues.

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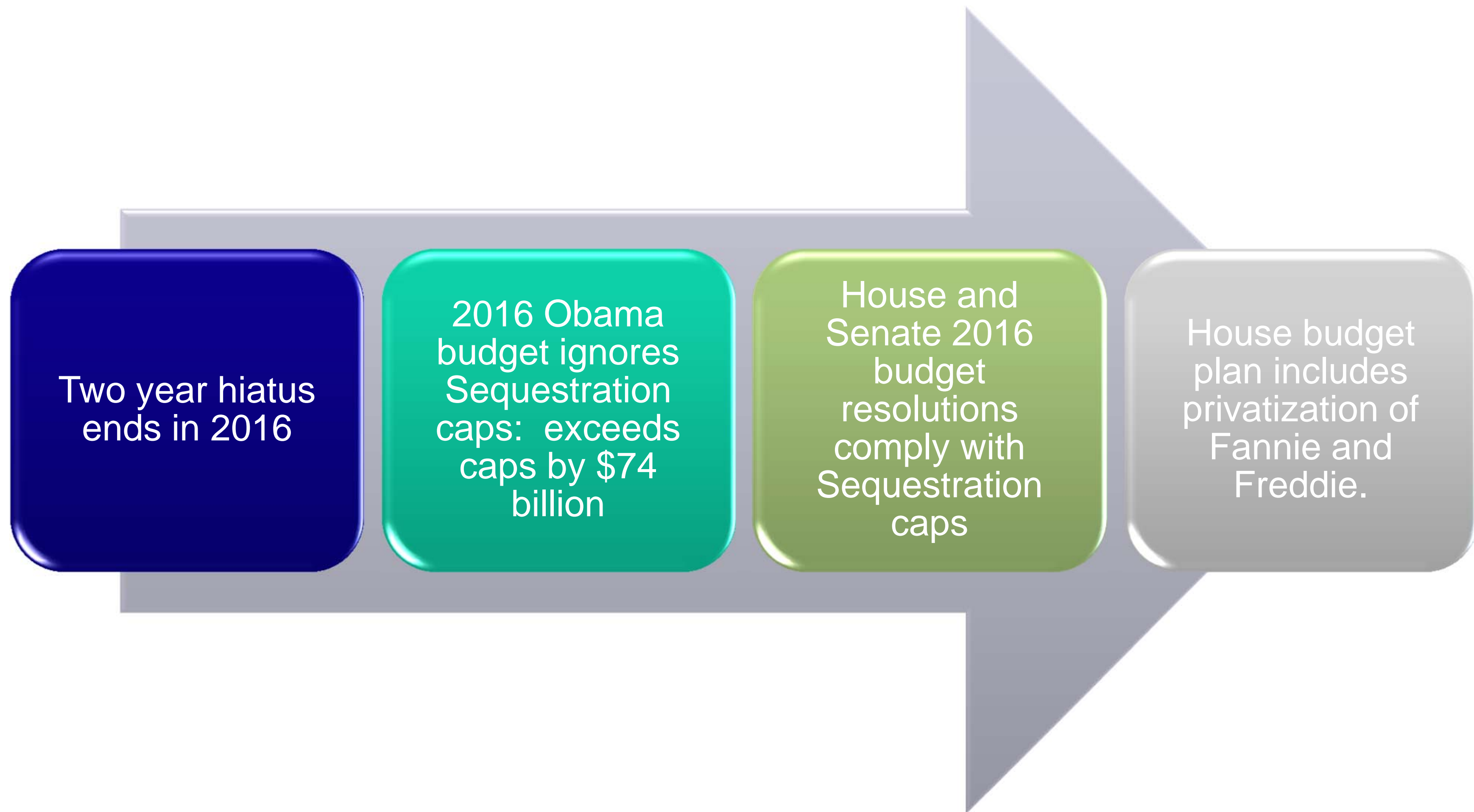
HUD APPROPRIATIONS: 2016 REQUEST:

$49.3 B; 8.7% INCREASE

Program ($ in millions)	2013 Sequestration	2014 Omnibus	2015 House Passed Bill H.R. 4745	2015 Senate Appropriations Committee S. 2438	2015 Cromnibus H.R. 83 H. Rept. 113-483	2016 Obama Proposal
Section 8 Project Based*	$8,851	$9.9 B*	$9.746 B	$9.7 B	$9.7 B	$10.76 B
Section 8 Tenant Based Renewals*	$17,964	$17.36 B*	$17.69 B	$17.719 B	$17.5 B	$18 B
CDBG	$3,135	$3.0 B	$3.06 B	$3.09 B	$3 B	$2.88 B
Housing for Persons with Disabilities (811)	$262	$126 M	$135 M	$135 M	$135 M	$177 M
Public Housing Capital Fund	$1,777	$1.875 B	$1.775 B	$1.9 B	$1.875 B	$1.970 B
Public Housing Operating Fund	$4,054	$4.4 B	$4.4 B	$4.48 B	$4.44 B	$4.6 B
Veterans Vouchers**	$75	$75 M	$75 M	$75 M	$75 M	$177 M
Elderly 202	$355	$383.5 M	$420M	$420M	$420M	$455 M
HOME	$948	$1 B	$700 M	$950 M	$900 M	$1.06 B
CHOICE Neighborhoods	$114	$90 M	$25 M	$90 M	$80 M	$250 M
RAD	$0	$0	$0	$10M	$0	$50 M

- Includes advanced appropriation of $400 M for project based and $4 B for tenant based.
- ** Veterans Vouchers included in broader category

SEQUESTRATION (BUDGET CONTROL ACT OF 2011)



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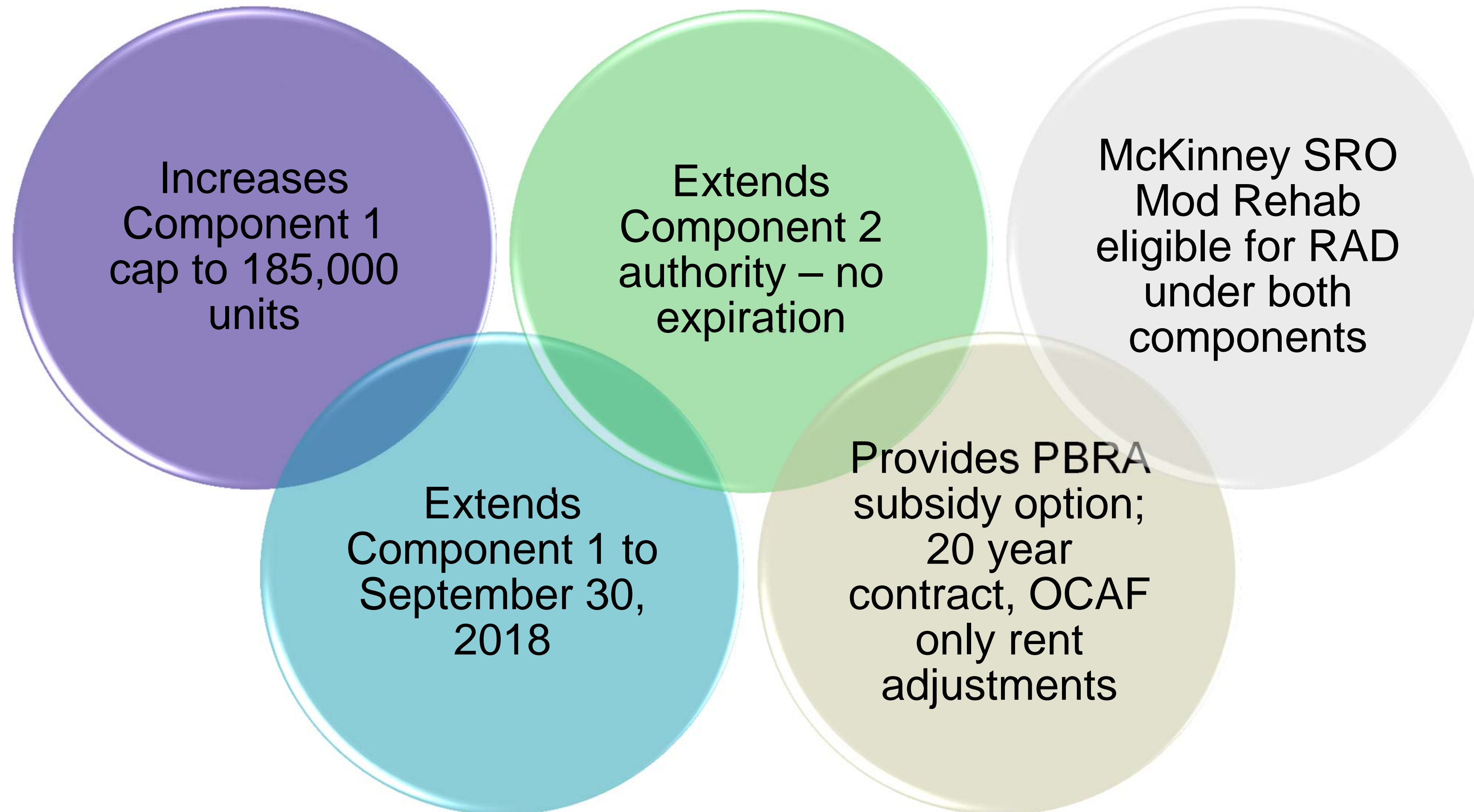
RENTAL ASSISTANCE DEMONSTRATION (RAD) - 2015 CHANGES



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HUD POLICY INITIATIVES

Option 1/Chapter 15	Section 236 Decoupling (H2013-25)
• Mark up to “Post Rehab” • Day 1 rents if perm. Loan amortizing Day 1 • Waivers: Generally HUB Director but RCS waiver from DC; and not often granted • If FHA loan, lender’s appraisal serves as RCS	• Re-decoupling • Assignment of IRP; existing takeout • Early termination of IRP; eliminate LD; amend 236(e)(2) Use Agreement

NP

HUD POLICY INITIATIVES, CONTINUED

<u>Transfer of Section 8 Budget Authority:</u>

HUD Notice 2014-14 issued October 9, 2014 implemented the ability to transfer Budget Authority of a Project-Based Section 8 Housing Assistance Payments Contract under Section 8(bb)(1) of the United States Housing Act of 1937

<u>Transfer of Section 8, Use Agreements and/or Mortgages:</u>

Federal Register Notice published March 31, 2015 becomes effective April 30, 2015, which was originally Section 318 of the 2006 Appropriations; Section 214 of the 2014 and 2015 Appropriations; and Section 212 of the 2015 and 2016 Appropriations.

NP

QUESTIONS?

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Q&A

- Send Questions to AskCitiCommunityCapital@citi.com or
- Follow instructions from the Operator - Press *1 for the operator to open your line.
  - This will enter you into the queue to ask a question

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  - Citi Community Capital – www.citicommunitycapital.com
- Our next Webinar is coming soon. We look forward to having you join us!

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Citi works with its clients in greenhouse gas intensive industries to evaluate emerging risks from climate change and, where appropriate, to mitigate those risks.

efficiency, renewable energy and mitigation

SUMMARY OF ADMINISTRATION LOW-INCOME HOUSING TAX CREDIT PROPOSALS
FOR FISCAL YEAR 2016

For Fiscal Year 2016, the Administration has identified several ways to make Low-Income Housing Tax Credits (LIHTCs) a more flexible and nimble tool for the creation and preservation of affordable housing.

One Fiscal Year 2016 provision enhances the prior proposal that would empower states to convert some tax-exempt private activity bond volume cap into allocable LIHTCs. Also, the revenue provisions of the Administration's Fiscal Year 2016 budget carry forward four proposals from the Fiscal Year 2015 budget. Finally, the Fiscal Year 2016 provisions include a new proposal to remove the population cap from HUD's ability to designate as a Qualified Census Tract (QCT) any census tract meeting the national criteria of sufficiently high incidence of poverty or low-income residents.

- The proposal to create *Private Activity Bond Conversion Authority* has been enhanced. As was the case last year, the proposal would create much needed flexibility in how states implement LIHTC. Specifically, the Fiscal Year 2016 proposal would allow states to convert up to 18% of their tax-exempt Private Activity Bond authority (PAB volume cap) into allocable (so-called 9%) LIHTCs, increasing a state's allocable LIHTCs by approximately 50% and addressing several other goals as well. First, for many projects, this proposal eliminates the need for going through unnecessary bond issuance procedures, which reduces transaction costs. Second, converting PAB cap into allocable LIHTCs brings more projects into the competitive 9% LIHTC allocation process, effectively giving states with limited resources more authority to better prioritize projects. Third, it would let states avail themselves of the greater flexibility that they have to increase eligible basis (and thus to increase credits) for high-priority projects that are subject to the LIHTC allocation ceiling (as compared with projects subject to the PAB cap). In addition to enabling states to convert PAB cap into allocable LIHTCs, the Fiscal Year 2016 provisions continue a proposed alternative method for earning (so-called) "4%" LIHTCs. If a developer receives an allocation of PAB cap sufficient to issue bonds that would finance at least half of a project, the developer would be able to earn the desired LIHTCs without issuing bonds that are not needed for financing purposes.

The following proposals are being carried forward—

- To maintain a preservation focus, the Administration is proposing a new *Selection Criterion for Preservation of Affordable Housing*. Adding this criterion to Qualified Allocation Plans under IRC Sec. 42(m)(1)(C) will encourage states to consider how to address the preservation needs of existing affordable housing.
- The Administration also builds on the now-expired temporary 9% credit floor provisions in the Housing and Economic Recovery Act of 2008, the American Taxpayer Relief Act of 2012, and the Tax Increase Prevention Act of 2014. This proposal to *Improve the Formulas for Allocated Credit Rates* will revise the present value formula for allocated LIHTCs, including allocated 4% credits, to increase the applicable percentages (that is, the annual credit rates). The proposed discount rates more accurately reflect market rates of interest.
- As in the Fiscal Year 2015 Budget, the Administration is proposing an elective *Average Income Criterion.* This criterion would encourage a greater range of incomes in LIHTC-supported affordable housing by allowing developers to choose an income-limitation requirement that would be satisfied if households in the low-income units have an *average income* no greater than 60 percent of AMI, with no household above 80 percent AMI. The average criterion would have to be satisfied by both weighting each low-income unit equally and weighting each unit by its imputed occupancy, based on the number of bedrooms. An additional provision would allow certain existing tenants to remain in residence without impairing the developer's entitlement to LIHTCs.
- The Administration's proposal regarding *Protections for Victims of Domestic Violence* would implement the requirement that LIHTC buildings provide protections for, and not discriminate against, victims of actual or threatened domestic violence. It would also clarify that occupancy restrictions or preferences for such victims are an allowable exception to the general-public-use requirement.

The following provision is new

- A proposal to *Remove the Population Cap on Areas Designated as QCTs* would allow HUD to designate as a QCT any census tract that meets the statute's criteria for the prevalence of poverty or low-income households. A building in a QCT earns 30 percent more LIHTCs than it would in another location. As a result of the population limit in current law, some census tracts with qualifying levels of poverty or low-income households fail to be designated as QCTs because they are located in metropolitan areas in which more than 20 percent of the population lives in such neighborhoods. Removing the population cap increases horizontal equity between equally poor census tracts in different metropolitan areas that differ in the incidence of other poor census tracts.

General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals

Department of the Treasury
February 2015

This document is available online at:
http://www.treasury.gov/resource-center/tax-policy/Pages/general_explanation.aspx

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NOTES

The Administration's proposals are not intended to create any inferences regarding current law. Within the *General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals*, unless otherwise stated:

- "Code" refers to the Internal Revenue Code
- "Section" refers to the respective section of the Internal Revenue Code
- "Secretary" refers to the Secretary of the Treasury
- "Budget" refers to the *Fiscal Year 2016 Budget of the U.S. Government*
- "IRS" refers to the Internal Revenue Service
- "TIN" refers to Taxpayer Identification Number
- "AGI" refers to Adjusted Gross Income
- "IRA" refers to Individual Retirement Account or Annuity

REFORM AND EXPAND THE LOW-INCOME HOUSING TAX CREDIT (LIHTC)

Current Law

If a taxpayer owns rent-restricted rental housing that is occupied by tenants having incomes below specified levels, the taxpayer may claim LIHTCs over a 10-year period. The credits earned each year generally depend on three factors—the portion of the building devoted to low-income units, the investment in the building, and a credit rate (called the "applicable percentage").

Computation of the credit amount

For a building to qualify for LIHTCs, a minimum portion of the units in the building must be rentrestricted and occupied by low-income tenants. Under section 42(g)(1) of the Code, the taxpayer makes an irrevocable election between two criteria. Either:

1. At least 20 percent of the units must be rent-restricted and occupied by tenants with income at or below 50 percent of area median income (AMI); or
2. At least 40 percent of the units must be rent-restricted and occupied by tenants with incomes at or below 60 percent of AMI.

In all cases, qualifying income standards are adjusted for family size. Maximum allowable rents are restricted to 30 percent of the elected income standard, adjusted for the number of bedrooms in the unit.

The amount of the investment used in the credit calculation (the "qualified basis") is the product of the portion of the building attributable to low-income units times the building's "eligible basis" (generally, depreciable basis at the end of the first taxable year in the credit period). In some cases, however, to enhance the economic feasibility of a project, the Code increases eligible basis by 30 percent (thus increasing the owner's LIHTCs by 30 percent) (a "basis boost").

For example, a basis boost applies to buildings in Qualified Census Tracts (QCTs). A QCT is a census tract that is characterized by a specified poverty rate or by a specified concentration of low-income residents and that is designated as a QCT by the Department of Housing and Urban Development (HUD). These designations, however, may not be made for a combination of census tracts in a metropolitan statistical area (MSA) if the aggregate population of the combination of tracts exceeds 20 percent of population of the MSA.

There are two applicable percentages, referred to as the 70-percent present value credit rate and the 30-percent present value credit rate. Each month, the IRS announces these rates. The stated goal is rates such that the 10 annual installments of the credit have a present value of 70 percent (or 30 percent) of the total qualified basis of the property. The Code prescribes a risk-free discount factor and other computational assumptions that the IRS must use in setting the rates.

The Housing and Economic Recovery Act of 2008 provided a temporary minimum applicable percentage of nine percent for the 70-percent present value credit rate for buildings placed in service after July 30, 2008, and before December 31, 2013. The American Taxpayer Relief Act of 2012 extended the nine-percent rate to apply to credit allocations made before January 1, 2014. The Tax Increase Prevention Act of 2014 extended this minimum applicable percentage to allocations made before January 1, 2015.

Additional prerequisites for earning LIHTCs

Credits are not available unless occupancy is available to the general public. Section 42(g)(9), however, clarifies that a project does not fail to meet this general public use requirement solely because of occupancy restrictions or preferences that favor tenants with special needs, tenants who are members of a specified group under certain Federal or State programs, or tenants who are involved in artistic or literary activities.

To ensure that low-income buildings remain low-income buildings for decades, no LIHTCs are allowed with respect to any building for any taxable year unless an extended low-income housing commitment (Long-Term-Use Agreement, or Agreement) is in effect as of the end of the year. A Long-Term-Use Agreement is a contract between the owner of the property and the applicable State housing credit agency (Agency). The Agreement must run with the land to bind future owners of the property for three decades or more, and certain provisions of the Agreement must be enforceable in State court not only by the Agency but also by any past, present, or future income-qualified tenant. In addition to requiring that certain minimum portions of a building be low-income units, the Long-Term-Use Agreement must mandate certain conduct in the management of the building, including prohibiting the refusal to lease because the prospective tenant is a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 and prohibiting eviction (other than for good cause) of any existing tenant in a low-income unit.

The allocation process

Every year, the Code provides each State with a limited number of LIHTCs that the State may allocate among proposed projects that are designed to earn LIHTCs. In general, regardless of how large a building's qualified basis may be, the LIHTCs that the owner may earn from the building are limited by the amount that the State has allocated. Each State (including any Agencies) must adopt a qualified allocation plan (QAP) to guide the allocation.

A QAP must give preference to projects serving the lowest income tenants, to projects obligated to serve qualified tenants for the longest periods, and to projects which are located in QCTs and the development of which contributes to a concerted community revitalization plan. In addition, the Code prescribes ten selection criteria that every QAP must include—project location, housing needs characteristics, project characteristics (including whether the project includes the use of existing housing as part of a community revitalization plan), sponsor characteristics, tenant populations with special housing needs, public housing waiting lists, tenant populations of individuals with children, projects intended for eventual tenant ownership, the energy efficiency of the project, and the historic nature of the project. A QAP must also provide a procedure that

the Agency (or its agent) will follow in monitoring for noncompliance with the rules for LIHTC eligibility and in notifying the IRS of any noncompliance of which the Agency has become aware.

Private activity bonds

In general, gross income does not include interest on any State or local bond if the bond is a qualified private activity bond (PAB). One of the requirements to be a qualified PAB is that the bond generally needs to be part of an issue whose face amount, together with the face amount of other PABs issued by the issuing authority in the calendar year, does not exceed the maximum amount of PABs that the authority may issue for the year (referred to as the "PAB volume cap"). Every year, the Code allows each State a limited amount of PAB volume cap.

In addition to earning LIHTCs as a result of receiving a State allocation of LIHTCs, a building owner can generate LIHTCs by financing the building with qualified PABs. Without any State allocation, LIHTCs may be earned on the full qualified basis of a building if the qualified PABs finance at least half of the aggregate basis of the building and the land. In the case of these bond-derived credits, however, the credit rate is the 30-percent present value credit rate, not the 70-percent present value credit rate (or, when applicable, at the 9-percent minimum rate), which generally applies to State-allocated credits. Bond-derived credits do not reduce the State's remaining allocable LIHTCs.

Protection against domestic abuse

LIHTCs support the construction and preservation of a large portion of the nation's affordable housing for people of limited means. LIHTCs differ, however, from Federal housing programs in its combination of the following attributes: the housing itself is owned and managed by private-sector persons, these persons are answerable in the first instance to State authorities (which are responsible for monitoring compliance with Federal requirements), and the Federal role (undertaken by the IRS) is to determine whether the owners are entitled to tax credits.

Section 601 of the Violence Against Women Reauthorization Act of 2013 provides that applicants or tenants of certain federally assisted housing may not be denied admission to, denied assistance under, terminated from participation in, or evicted from, the housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking (collectively, "domestic abuse"). In appropriate cases, a lease may be bifurcated to evict or otherwise remove the perpetrator of criminal domestic abuse and yet to avoid penalizing a victim of that abuse who is a lawful occupant. That section applies these duties to "the low income housing tax credit program under section 42 of the Internal Revenue Code of 1986."

Reasons for Change

Agencies in charge of allocating LIHTCs are often confronted with a larger number of deserving projects than they can support. Some of these buildings can be built only with higher credit rate LIHTCs. Increasing the volume of higher rate credits would allow the development of some

projects for which the current supply is insufficient. In addition, some developers obtain LIHTCs by financing their buildings with PABs even though they have access to more preferred financing options. The resulting transaction costs consume resources that might otherwise provide affordable housing.

In practice, the income criteria often produce buildings that serve a narrow income band of tenants—those just below the eligible income threshold. Without incentives to create mixed-income housing, LIHTC-supported buildings may not serve those most in need. In addition, the inflexibility of the income criteria makes it difficult for LIHTC to support acquisition of partially or fully occupied properties for preservation or repurposing.

The current discounting formula does not function well when interest rates are particularly high or low. When interest rates are very low, States may be unable to address their highest affordable-housing priorities, which often require high levels of LIHTC subsidy. The recent reductions in the Federal and State resources that might have filled financing gaps exacerbate the difficulty posed by the too-low discount rate. The temporary nine-percent floor was a response to these challenges. In high-interest-rate environments, the need for LIHTCs is especially acute. Rising interest rates increase the gap between an owner's expenditures and the restricted rents that the LIHTC statute allows the owner to collect.

Preservation and rehabilitation of existing affordable housing is often a more efficient way of supplying affordable housing than is new construction. In addition, public resources may have already been expended in the development of existing affordable housing. Thus, preservation of federally assisted affordable housing should be encouraged.

Because of the population cap on census tracts in an MSA that may be designated as QCTs, some tracts with qualifying levels of poverty or low income residents may be kept from QCT status by the presence of similarly distressed areas in the same MSA. Nearby poverty should not bar an otherwise-eligible poor census tract from qualifying for increased subsidies.

Although the Violence Against Women Reauthorization Act of 2013 provides that no building that has produced LIHTCs for its owner should fail to provide reasonable protections for victims of domestic abuse, it does not amend the Code, nor does it contain any provision for enforcing those protections in LIHTC buildings.

Proposal

Allow conversion of private activity bond volume cap into LIHTCs

The proposal would provide two ways in which PAB volume cap could be converted into LIHTCs.

First, States would be authorized to convert PAB volume cap to be received for a calendar year into LIHTC allocation authorization applicable to the same year. The conversion ratio would be reset each calendar year to respond to changing interest rates. In addition, each State would be subject to an annual maximum amount of PAB volume cap that can be converted.

For each $1,000 of PAB volume cap surrendered, the State would receive additional allocable LIHTCs for the calendar year equal to: $1000 × twice the applicable percentage that applies for PAB-financed buildings and that is determined under section 42(b)(1)(B)(ii) for December of the preceding calendar year.

The aggregate amount of PAB volume cap that each State may convert with respect to a calendar year is 18 percent of the PAB volume cap that the State receives for that year under section 146(d)(1).

The proposal would be effective with respect to PAB volume cap to be received in, and additional LIHTC allocation authority received for, calendar years beginning after the date of enactment.

Second, instead of obtaining the lower-rate credits by financing at least 50 percent of a building with PABs, a taxpayer could obtain these credits by satisfying the following requirements: (1) there is an allocation of PAB volume cap in an amount not less than the amount of bonds that would be necessary to qualify for LIHTCs and (2) the volume cap so allocated reduces the State's remaining volume cap as if tax-exempt bonds had been issued.

The proposal would be effective for projects that are allocated volume cap after the date of enactment.

Encourage mixed income occupancy by allowing LIHTC-supported projects to elect a criterion employing a restriction on average income

The proposal would add a third criterion to the two section 42(g)(1) criteria that are described above. When a taxpayer elects this third criterion, at least 40 percent of the units in the project would have to be occupied by tenants with incomes that average no more than 60 percent of AMI. No rent-restricted unit, however, could be occupied by a tenant with income over 80 percent of AMI; and, for purposes of computing the average, any unit with an income limit that is less than 20 percent of AMI would be treated as having a 20-percent limit. Maximum allowable rents would be determined according to the income limit of the unit. A project would satisfy the third criterion only if the average income of the units is no more than 60 percent of AMI both (1) calculated with all low-income units weighted equally; and (2) calculated with each low-income unit weighted according to imputed LIHTC occupancy rules, i.e., 1.5 occupants per bedroom and one occupant for zero-bedroom units).

For example, suppose that a project has 70 identical rent-restricted units—10 units with income limits of 20 percent of AMI, 10 with limits of 40 percent of AMI, 20 with limits of 60 percent of AMI, and 30 with limits of 80 percent of AMI. This would satisfy the new criterion because none of the limits exceeds 80 percent of AMI and the average does not exceed 60 percent of AMI. ($10×20 + 10×40 + 20×60 + 30×80 = 4200$, and $4200/70 = 60$.) (Because all of the units are identical, when the average is calculated weighting each unit by its imputed occupancy, the weighted average is also 60.)

A special rule would apply to rehabilitation projects that contain units that receive ongoing subsidies (e.g., rental assistance, operating subsidies, and interest subsidies) administered by HUD or the Department of Agriculture. If a tenant, when admitted to such a property, had an income not more than 60 percent of the then-applicable AMI and if, when the tenant's income is measured for purposes of LIHTC qualification, the tenant's income is greater than 60 percent of the now-applicable AMI but not more than 80 percent of AMI (this fraction is called the "Credit-Year-1 AMI Percentage"), then, the taxpayer may make an election that would allow the tenant to remain in residence without impairing the building's LIHTCs. In particular, the election would have the following consequences: (1) the average-income calculations would be made without taking that tenant's unit into account; (2) the requirement in the next-available-unit rule, *see* section 42(g)(2)(D)(ii), would apply; and (3) the tenant's unit would be treated as rent-restricted if the gross rent collected from the unit does not exceed 30 percent of the Credit-Year-1 AMI Percentage multiplied by the current AMI.

When the tenant moves out, if the unit is to continue to be rent-restricted, the income restriction on the unit would revert to 60 percent of AMI (or whatever other level the taxpayer determines, consistent with the criterion that was elected under section 42(g)(1)).

The proposal would be effective for elections under section 42(g)(1) that are made after the date of enactment.

Change formulas for 70 percent PV and 30 percent PV LIHTCs

The proposal would not extend the nine-percent temporary minimum applicable percentage, which expired at the end of 2014, but it would increase the discount rate used in the present value calculation for the credit rates used for allocated LIHTCs. The change would apply to both the 70-percent present value applicable percentage and to the 30-percent present value applicable percentage, but only with respect to allocated LIHTCs. The new discount rate would better reflect private-market discount rates. Under the proposal, the discount rate to be used would be the average of the mid-term and long-term applicable Federal rates for the relevant month, plus 200 basis points. (The 30-percent present value applicable percentage for LIHTCs that result from tax-exempt bond financing would continue to be computed under current law.)

The proposal would be effective for buildings that receive allocations on or after the date of enactment.

Add preservation of federally assisted affordable housing to allocation criteria

The proposal would add preservation of federally assisted affordable housing as an eleventh selection criterion that QAPs must include.

The proposal would be effective for allocations made in calendar years beginning after the date of enactment.

Remove the QCT population cap

The proposal would allow HUD to designate as a QCT any census tract that meets the current statutory criteria of a poverty rate of at least 25 percent or 50 percent or more of households with an income less than 60 percent of AMI. That is, the proposal would remove the current limit under which the aggregate population in census tracts designated as QCTs cannot exceed 20 percent of the metropolitan area's population.

This change would apply to buildings that receive allocations of LIHTCs or volume cap after the date of enactment.

Implement requirement that LIHTC-supported housing protect victims of domestic abuse

Protections for victims of domestic abuse would be required in all Long-Term-Use Agreements. These provisions would apply to both the low-income and the market-rate units in the building. For example, once such an Agreement applies to a building, the owner could not refuse to rent any unit in the building to a person because that person had experienced domestic abuse. Moreover, such an experience of domestic abuse would not be good cause for terminating a tenant's occupancy. Under the Agreement, an owner could bifurcate a lease so that the owner could simultaneously (1) remove or evict a tenant or lawful occupant who engaged in criminal activity directly relating to domestic abuse and (2) avoid evicting, terminating, or otherwise penalizing a tenant or lawful occupant who is a victim of that criminal activity. The proposal would clarify that such a continuing occupant of a low-income unit could become a tenant and would not have to be tested for low-income status as if the continuing occupant were a new tenant.

Any prospective, present, or former occupant of the building could enforce these provisions of an Agreement in any State court, whether or not that occupant meets the income limitations applicable to the building.

In addition, the proposal would clarify that occupancy restrictions or preferences that favor persons who have experienced domestic abuse would qualify for the "special needs" exception to the general public use requirement.

The proposed requirements for Long-Term-Use Agreements would be effective for Agreements that are either first executed, or subsequently modified, 30 days or more after enactment. The proposed clarification of the general public use requirement would be effective for taxable years ending after the date of enactment.

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016-20	2016-25
Extend and modify certain employment tax credits, including incentives for hiring veterans	-403	-796	-885	-950	-997	-1,033	-1,074	-1,121	-1,167	-1,210	-1,255	-4,661	-10,488
Modify and permanently extend renewable electricity production tax credit and investment tax credit 3/	0	596	-869	-2,323	-2,775	-3,283	-3,695	-4,075	-4,524	-4,991	-5,513	-8,654	-31,452
Modify and permanently extend the deduction for energy-efficient commercial building property	0	-170	-256	-294	-302	-298	-290	-280	-270	-260	-252	-1,320	-2,672
Provide a carbon dioxide investment and sequestration tax credit 3/	0	0	0	-174	-1,094	-1,149	-600	-466	-495	-521	-541	-2,417	-5,040
Provide additional tax credits for investment in qualified property used in a qualifying advanced energy manufacturing project	0	0	-73	-192	-1,111	-772	-94	14	48	40	37	-2,148	-2,103
Provide new Manufacturing Communities Tax Credit	0	-87	-256	-457	-600	-683	-745	-784	-689	-447	-145	-2,083	-4,893
Extend the tax credit for second generation biofuel production	-35	-80	-119	-149	-163	-175	-183	-158	-113	-65	-18	-686	-1,223
Subtotal, incentives for manufacturing, research, and clean energy	**-3,990**	**-8,066**	**-11,748**	**-14,895**	**-18,431**	**-19,789**	**-20,068**	**-21,240**	**-22,562**	**-23,790**	**-25,014**	**-72,929**	**-185,603**
Incentives to promote regional growth:													
Modify and permanently extend the New Markets Tax Credit	-18	-119	-289	-491	-720	-968	-1,226	-1,470	-1,605	-1,620	-1,586	-2,587	-10,094
Reform and expand the Low-Income Housing Tax Credit (LIHTC):													
Allow conversion of private activity bond volume cap into LIHTCs	*0*	*-7*	*-37*	*-117*	*-210*	*-314*	*-403*	*-497*	*-590*	*-694*	*-797*	*-685*	*-3,666*
Encourage mixed income occupancy by allowing LIHTC-supported projects to elect a criterion employing a restriction on average income					*Negligible revenue effect*								
Change formulas for 70 percent present value and 30 percent present value LIHTCs	*0*	*-1*	*-3*	*-8*	*-14*	*-18*	*-22*	*-25*	*-30*	*-33*	*-37*	*-44*	*-191*
Add preservation of federally assisted affordable housing to allocation criteria					*Negligible revenue effect*								
Remove the qualified Census tract population cap	*0*	*-1*	*-2*	*-5*	*-9*	*-13*	*-16*	*-19*	*-21*	*-24*	*-26*	*-30*	*-136*
Implement requirement that LIHTC-supported housing protect victims of domestic abuse					*Negligible revenue effect*								
Subtotal, reform and expand LIHTC	0	-9	-42	-130	-233	-345	-441	-541	-641	-751	-860	-759	-3,993
Subtotal, incentives to promote regional growth	**-18**	**-128**	**-331**	**-621**	**-953**	**-1,313**	**-1,667**	**-2,011**	**-2,246**	**-2,371**	**-2,446**	**-3,346**	**-14,087**
Incentives for investment in infrastructure:													
Provide America Fast Forward Bonds (AFFB) and expand eligible uses:													
Provide AFFB and expand eligible uses 3/	*0*	*0*	*-1*	*0*	*1*	*0*	*0*	*0*	*0*	*0*	*1*	*0*	*1*
Allow eligible use of AFFB to include financing all qualified private activity bond program categories 3/	*0*	*-1*	*-4*	*-11*	*-15*	*-22*	*-28*	*-35*	*-41*	*-48*	*-54*	*-53*	*-259*
Subtotal, provide AFFB and expand eligible uses	0	-1	-5	-11	-14	-22	-28	-35	-41	-48	-53	-53	-258
Allow current refundings of State and local governmental bonds	0	-1	-5	-5	-5	-5	-5	-5	-5	-5	-5	-21	-46
Repeal the $150 million non-hospital bond limitation on qualified section 501(c)(3) bonds	0	0	-1	-3	-5	-7	-9	-11	-13	-16	-17	-16	-82
Increase national limitation amount for qualified highway or surface freight transfer facility bonds	-6	-28	-60	-93	-125	-153	-167	-163	-136	-96	-55	-459	-1,076
Provide a new category of qualified private activity bonds for infrastructure projects referred to as "Qualified Public Infrastructure Bonds"	0	-25	-117	-251	-386	-524	-638	-695	-714	-733	-751	-1,303	-4,834
Modify qualified private activity bonds for public education facilities					Negligible revenue effect								
Modify treatment of banks investing in tax-exempt bonds	0	-5	-38	-131	-225	-317	-405	-493	-574	-630	-616	-716	-3,434
Repeal tax-exempt bond financing of professional sports facilities	0	3	11	23	35	47	60	72	85	97	109	119	542
Allow more flexible research arrangements for purposes of private business use limits	0	0	0	0	-1	-1	-1	-3	-3	-3	-4	-2	-16
Modify tax-exempt bonds for Indian tribal governments	0	-4	-12	-12	-12	-12	-12	-12	-12	-12	-12	-52	-112
Exempt foreign pension funds from the application of the Foreign Investment in Real Property Tax Act	0	-120	-206	-216	-227	-238	-250	-263	-276	-290	-304	-1,007	-2,390
Subtotal, incentives for investment in infrastructure	**-6**	**-181**	**-433**	**-699**	**-965**	**-1,232**	**-1,455**	**-1,608**	**-1,689**	**-1,736**	**-1,708**	**-3,510**	**-11,706**
Eliminate fossil fuel tax preferences:													
Eliminate fossil fuel tax preferences:													
Eliminate oil and natural gas preferences:													
Repeal enhanced oil recovery credit 4/	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*
Repeal credit for oil and natural gas produced from marginal wells 4/	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*	*0*