



Industry Fighting for TAM Remedy Bill: Legislation Expected in Coming Weeks

By Michael J. Novogradac, CPA

Affordable housing practitioners are putting the heat on Washington lawmakers to introduce legislation that would reverse certain Internal Revenue Service (IRS) positions regarding what is includable in eligible basis. House Ways and Means Committee member Nancy Johnson (R-Conn.) is studying the issue and considering the best course of action. Ways and Means ranking minority member Charles Rangel (D-N.Y.) is reported to favor the concept and would likely be the chief Democratic cosponsor. On the Senate side, affordable housing lobbyists talked with Sens. Bob Graham (D-Fla.), Olympia Snowe (R-Maine), John Kerry (D-Mass.) and Orrin Hatch (R-Utah) about spearheading Senate legislation.

The IRS issued five Technical Advice Memorandums (TAMs) last October that have the potential to significantly harm low-income housing tax credit (LIHC)-funded rental communities. The TAMs convey the first public indication of the IRS' position on which development costs may be included in eligible basis. Flying in the face of industry practice, the TAMs said that state and local impact fees and certain landscaping costs cannot be included in eligible basis. For the last several months, industry groups have worked to draft tax law language that would create a new concept of development cost basis. The proposed legislation would likely identify costs that would qualify for inclusion in eligible basis. These may include site preparation costs; reasonable development fees; state and local impact fees and construction financing costs, but not land acquisition costs. Affordable housing practitioners should urge House Ways and Means Committee Chairman Bill Thomas (R-Calif.) to take immediate legislative action on this important issue. To contact Thomas, call (202) 225-2915 or write him at 2208 Rayburn House Office Building, Independence Ave. & S. Capitol St., S.W., Washington, D.C. 20515. ❖

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