

# Industry Stresses Value of LIHTC, TEB Programs in Testimony to Tax Reform Panel

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Sens. Connie Mack and John Breaux, chairman and vice-chairman, respectively, of the President's Advisory Panel on Federal Tax Reform, earlier this year invited interested parties to submit comments on the various tax reform proposals that have been presented to the panel. Several organizations and agencies submitted their comments urging the panel to ensure that any proposed reforms do not harm the low-income housing tax credit (LIHTC) and tax-exempt bond programs.

In April, this publication reported that the Government Accountability Office (GAO) had pointed to the extensive use of tax credit incentives to promote social and economic objectives as a part of the growing complexity of the tax system. The GAO identified the LIHTC program and the earned income credit as the largest federal government incentive programs, and commented that tax incentives do not compete in the annual budget process and in effect are fully funded before any discretionary spending is considered. A more chilling GAO finding for the LIHTC industry was its statement that "relatively little is known about the effectiveness of tax incentives in achieving the objectives intended by Congress. As far back as 1994, GAO concluded, these incentives deserved more scrutiny."

Conversely, at a recent Ways and Means Committee hearing on Tax Reform, as reported by the *Washington Post*, Rep. Nancy Johnson, R-Conn., spoke in favor of such tax incentives as those for housing and healthcare. During the hearing she said, "I just want to put my marker down, . . . you've got to have better information for me to convince me that tax credits aren't powerful or important in structuring a society."

## Industry Response

True to its word, the National Association of Home Builders (NAHB) followed up on its pledge to "not only to protect the LIHTC, but to enhance it" and to ensure that "the interests of the multifamily industry are well served" during the tax reform discussions. In its written comments to the panel, NAHB said it supports retaining an income tax as the sole method of raising general federal revenues and supports a number of modifications to it to preserve and strengthen housing

incentives, including indexing to inflation the eligible loan amount for the mortgage interest deduction, as well as the capital gain exclusion for sales of residents; repealing the individual and corporate alternative minimum tax but failing that, at a minimum, providing a full exemption for state and local taxes and full use of the LIHTC under the individual AMT; and, finally, adding a homeownership tax credit to the tax code to develop housing for sale to low- and moderate-income home buyers in difficult to develop areas.

In its comments, Rhode Island Housing urged protection of the LIHTC and housing bond programs, noting that in that state the programs have financed the creation or preservation of 1,648 apartments in the last year alone. Using revenue mortgage bonds, first-time homeownership in the state was made possible for more than 58,000 working class Rhode Island families in a state where the median price of a single-family home is \$274,000 and the average income of borrowers last year was \$47,000. In 2004, the state's housing activity produced \$255 million in economic activity.

The National Association of State and Local Equity Funds (NASLEF) wrote the panel urging the preservation of the LIHTC program, its premise being that it would meet the President's mandate to simplify the federal tax laws in the areas of reducing the costs and administrative burdens of compliance with federal law. "The existence of the LIHTC in no way contributes to the compliance burdens of the average individual taxpayer or corporate taxpayer," NASLEF wrote. "In fact, ..., the LIHTC is a product of the last great effort to simplify the tax laws. It was created as part of the Tax Reform Act of 1986." The organization of 19 state-based equity funds operating in 41 states, notes that the LIHTC program is a well-targeted, highly efficient tax incentive, used by a very small number of large corporate taxpayers that imposes minimal administrative burdens on the Internal Revenue Service and has a record of very high taxpayer compliance. "Today almost all equity capital raised by the LIHTC is from a very small number of the largest corporations in the nation, mostly financial companies," wrote NASLEF. "This is not a tax code complication that is imposed on

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corporations, but instead is one they willingly assume for a number of reasons; including the economic returns the credit provides, the Community Reinvestment Act credit that is earned, and the corporate community investment mission that is achieved."

The tax code acting as a tool for providing incentives to accomplish public good that the unassisted market will not, and not simply as a mechanism for raising revenue, was the basis of the Minnesota Housing Finance Agency's comments. The agency cited a 2003 study that shows that between 2000 and 2010, Minnesota's low-income population will grow by 116,000 only half of which will be able to find affordable housing in the private market, leaving a shortfall of 59,300 units. "Elimination or curtailment of [the] tax code housing programs that are essential to the public and philanthropic sector provision of affordable housing will exacerbate the problem.... Though the numbers may vary, the essential nature of this problem will be replicated across the nation," the agency wrote.

The New Mexico Mortgage Finance Authority (MFA), along with the Affordable Housing Tax Credit Coalition (AHTCC) and the National Council of State Housing Agencies (NCSHA) shared a platform that spoke to protecting a "most significant" federal financial resource for the production of affordable rental housing for America's low-income families. "Tax incentives have proven to be the most efficient way to create affordable housing and the housing credit ... is one of the few areas in which the use of the Internal Revenue Code to meet social goals is vital and has no viable alternatives," wrote the AHTCC. "Any tax reform adopted must be structured to avoid harming this very successful program."

In New Mexico, MFA has used the housing credit and multifamily housing bond programs to finance more than 11,000 units in 25 counties, which the agency says amounts to a \$2.9 billion economic impact over 10 years. Its single-family bond program has financed an estimated 16,000 new home loans with an estimated \$5.2 billion, 10-year economic impact. Between 2000 and 2004, MFA used MRBs to finance mortgages for more than 9,000 first-time home buyers with an average income of roughly \$30,000. When

paired with the number of construction jobs to build these new homes, MRB-financed new single-family homes generated almost 4,000 jobs.

In urging the panel to preserve the LIHTC and tax-exempt private activity housing bond programs in its tax reform proposals, NCSHA cites the country's "great and growing" need for affordable housing. "Federal funding for housing programs is insufficient to make headway against [the growing affordability] problems." Furthermore, the organization of housing agencies says, the price investors are will to pay for LIHTCs and the return they are will to accept is proof of the efficiency of the LIHTC program. "Over the last 10 years, the average price per dollar for housing credits has increased over 50 percent. In some cases today, investors are paying more than a dollar for a dollar's worth of housing credits," wrote NCSHA.

As NCSHA's comments point out, several tax reform proposals before the panel would eliminate the LIHTC and tax-exempt bond programs, a situation that the private market could not rectify. The key to the programs is that these credit and bond investors stand to lose the primary economic benefit of their investments through recapture or loss of tax-exempt status if the programs fail to achieve their public purpose. "This consequence," wrote NCSHA, "provides a performance incentive unmatched by direct spending programs that has helped make the housing credit and bond programs the most effective and efficient deferral mechanisms for providing affordable housing."

The advisory panel has been asked to submit to the Secretary of the Treasury by September 30, 2005 a report containing recommendations to make tax laws simpler, fairer and more conducive to economic growth. ❖