

# Treasury Paper Examines Effect of Eliminating LIHTC

By Michael J. Novogradac, CPA

A U.S. Department of the Treasury report released on July 24 set off alarms in the low-income housing tax credit (LIHTC) industry when its examination of business taxes as they relate to global competitiveness concluded that the top corporate income tax rate could be lowered more than 20 percent by eliminating a variety of corporate tax benefits, including the LIHTC. This and other projections were contained in a background paper that considered "how the nation's business tax environment can be designed to ensure that the United States continues to attract and generate the investment and innovation necessary to further advance living standards and real wages of the U.S. worker." Titled "Treasury Conference on Business Taxation and Global Competitiveness Background Paper," the report presents a broad overview of the business tax system, focusing on four elements, one of which is the extent to which special provisions narrow the business tax base.

Following the release of the background paper, President George W. Bush in an August 9 press conference scheduled to announce his signing of the America Competes Act, which supports many of the key elements of the American Competitiveness Initiative, told reporters that he is in the "very early stages of discussion" about cutting corporate tax rates. He said the idea surfaced as a result of the meetings being held at the Treasury Department that discussed business taxation and global competitiveness. The background paper, which was prepared for those meetings, concluded that the top corporate tax rate could drop from 35 percent to 27 percent if lawmakers eliminated a number of provisions in the Internal Revenue Code, including the Section 199 manufacturing deduction, the research and development tax credit, Subpart F deferral, and the LIHTC.

## Special provisions of the tax code

The nation's current tax base includes many special provisions that reduce taxes for specific types of activities, industries and businesses. Among them are tax credits.

The underlying concept for many of the provisions is that they promote activities that have spill-over effect or address market failures. The LIHTC

program, which was created by the Tax Reform Act of 1986 as an alternate method of funding housing for low- and moderate-income households, was established by lawmakers as an incentive for private developers and investors to provide more low-income housing. Without the incentive, affordable rental housing projects do not generate sufficient profit to warrant the investment. The LIHTC has over the last 20 years become an extremely effective tool for the development of affordable housing.

The Treasury's background paper notes that special provisions, when considered together, narrow the corporate tax base, requiring higher tax rates to raise the same tax revenue. As an example, it estimates that if the tax base were broadened by removing the special provisions, the top corporate tax rate of 35 percent could be reduced to 27 percent.

In its paper, Treasury notes that targeted tax preferences forego government tax revenue and cause tax rates to be higher for all businesses. "The resources, in terms of revenue foregone, spent providing narrow targeted tax provisions could be used instead to provide sector-wide incentives for economic growth," the paper reported. The Treasury report estimates that by repealing all corporate tax preferences effective January 1, 2008 more than \$5 billion would be raised over a 10-year period, assuming the corporate tax would have a comprehensive income base with the same statutory tax rates as the current system.

## The Administration's response

Noting his pleasure with those programs that will receive funding under the America Competes Act, Bush said some of his key priorities were left unfulfilled by Congress while other "unnecessary and duplicative" programs were authorized. "I will continue to focus my budget requests on key priorities in the bill I outlined and will work with Congress to focus its spending on those programs that will be most effective."

When asked about cutting corporate taxes,

(continued on page 2)

# Treasury Paper Examines

*(continued from page 1)*

Bush directed his comments to global competitiveness. "The whole reason to look at corporate rates is to determine whether or not they make us less competitive in a global economy," he said. "...and if the conclusion is that our tax structure makes it harder for businesses to compete, therefore making it harder for people to find work over time, then we need to address the competitive imbalance in our tax code." He reiterated his oft-expressed desire that anything submitted to Congress be revenue neutral, a simplification of the complex tax code that might be able to lower rates. He did concede that this is a difficult issue, pointing to special interests that he said exerted pressure to get preferences into the code.

## The LIHTC Industry Response

In a letter to Secretary of the Treasury Henry Paulson, with copies to the House Ways and Means Committee and the Senate Finance Committee, several member organizations of the Affordable Housing Tax Credit Coalition expressed their alarm to see the elimination of the LIHTC program included among the projections in the department's background paper. The parties to the letter, which included Enterprise Community Partners, Local Initiatives Support Corporation, National Affordable Housing Management Association, National Apartment Association, National

Association of Home Builders, National Association of State and Local Equity Funds, National Leased Housing Association and National Multi Housing Council, urged the Bush Administration to continue support for the program, calling the LIHTC program the "single greatest catalyst for affordable housing development and preservation in existence today."

Observing that the nation recommitted itself more than 20 years ago to providing affordable housing by creating the LIHTC program, the letter's co-signers noted that millions of low- and moderate-income families have benefited by the program and urged the Administration to stand by this national commitment as the discussion of tax simplification continues and to preserve the LIHTC program.

We agree that maintaining competitiveness of the U.S. economy requires a careful consideration of how our business tax environment can be designed to ensure that the nation continues to attract and generate the investment and innovation necessary to advance living standards and real wages of U.S. workers. However, we also believe that we must provide U.S. workers with access to safe, decent and affordable housing. A failure to do this would defeat the President's stated goal of keeping the American economy the "envy of the world." ❖