

Novogradac Report on Tax Credits
Transcript: December 29, 2009

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(Intro music)

Hello! It's Tax Credit Tuesday and I'm Michael Novogradac.

Today is Tuesday, December 29th, 2009. This week I bring you greetings from Chiang Mai, Thailand. This is the last podcast of the year, and I hope you're enjoying your holidays.

In this week's podcast I will share some of the recommendations contained in a report that was prepared by the Iowa Department of Management detailing the use and cost of Iowa's 30 state tax credit programs.

Then, I will discuss the Kentucky Housing Corporation's announcement last week regarding its plans to collect tenant data on all projects that receive funding from the state housing agency. This is required by the Housing and Economic Recovery Act, or HERA. You remember HERA don't you? It contained numerous enhancements to the LIHTC program and passed about a year and a half ago. With all that has been happening in the LIHTC equity markets, many forget about the significant LIHTC enhancements contained in HERA.

For my final topic for the podcast this week I will review the most recent Recovery Act funding news from the Treasury Department, which announced last week that it had surpassed \$4 billion in cash grants awarded to states in lieu of low-income housing tax credits.

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But first, I have a quick legislative update.

Last week, on December 22nd, Senator Max Baucus of Montana, the Democratic Chair of the Senate Finance Committee and Charles Grassley of Iowa, the Senior Republican on the Senate Finance Committee, they sent a joint letter to Senate Majority Leader Harry Reid of Nevada and Minority Leader Mitch McConnell of Kentucky. The letter was regarding the failure of the Senate to act on extending expiring tax provisions before adjourning the first session of the 111th Congress. In the letter, and in an additional joint statement, the Finance Committee leaders declared their intent to address expiring tax provisions early in 2010.

As our listeners will recall, the House passed H.R. 4213, the Tax Extenders Act of 2009, on December 9th. The House bill would provide individuals and businesses with approximately \$31 billion in tax relief by extending, for one year through 2010, more than 40 provisions that are currently scheduled to expire at the end of 2009. One key community development extender provision is the extension of the new markets tax credit program through 2010 at the \$5 billion credit allocation authority level.

The House bill would also extend for one year, through 2010, the low-income housing tax credit exchange program that was created by the American Recovery and Reinvestment Act of 2009. The exchange program is a temporary provision that allows state housing agencies to elect to receive a cash grant from the Treasury

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Department, in lieu of a portion of the state's allocation of low-income housing tax credits.

A copy of the House bill and Senators Baucus and Grassley's letter can be found online at www.novoco.com. Just click on Hot Topics and then the link Tax Extenders 2009.

Now, let's get started with our first topic. As many listeners may have read in the news, there has been considerable attention paid to state tax credits recently in Iowa.

On December 14th, the Iowa Department of Management released a report that details the use and cost of the state's 30 tax credit programs.

The report was requested by Iowa Governor Culver on November 19th. Governor Culver ordered a comprehensive review of the state's tax credit programs after questions about the film tax credit and Iowa's struggling economy spurred scrutiny of state tax credits. The directors of the six state agencies that oversee the tax credit programs were instructed to submit a review of their respective department's tax credit programs.

Iowa Department of Management Director Dick Oshlo was chosen to chair the panel of directors. The report addresses oversight, accountability, transparency, public reporting and cost-benefit of the 30 state tax credit programs. The resulting report was intended to serve as a framework for discussions of which credits should be maintained, expanded or eliminated. We wouldn't be

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surprised to see a number of other states review this report and apply some of the conclusions of the report to their own state tax credits.

Regarding the benefits and costs of the Iowa Film Credits that spurred the review, the report found that the state's film tax credit fiscal benefits may be limited. The report says that Iowa has issued \$32 million in film tax credits thus far and those credits may have intangible or localized benefits. However, the report says, and I quote, "Even with these benefits considered, positive fiscal impact to the State treasury is not expected under current program structure." close quote

Some tax credits fared better in the report's evaluation, including the Iowa Historic Preservation and Cultural and Entertainment District Tax Credit, which provides a state income tax credit for the rehabilitation of historic buildings.

The report says that the Department of Cultural Affairs, or DCA, fully believes the return on investment is much greater than the aggregate cost of the tax credits. However, the report says there is insufficient data to back up that claim. The Department of Revenue, in conjunction with the DCA, developed a new survey in July 2009 to assist the state in determining the overall return on investment for the program, and the results of that survey are still being collected.

The report says that what is known about the return on investment is that the state tax credit program ensures four dollars are spent on qualified rehabilitation costs for each dollar received as a tax credit after the project is completed. The report also says that

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the overall return on investment should also consider the construction jobs necessary to complete the work, the material purchased during construction, the localized economic stimulus during construction, and the property value increase once the work is done. Other factors include the resulting long-term retail, office or housing units created as a result of the rehabilitation. For example, the report says that between state fiscal year 2001 and state fiscal year 2008, the program resulted in the creation of 1,252 new housing units.

Moreover, the state historic tax credit is often paired with other state and federal incentives. According to a March 2009 Department of Revenue report, each dollar of state tax credits, such as the historic tax credit, leveraged 3.77 of “out-of-state” money, meaning federal tax credits or private investment.

Erin Seidler, communications director for Governor Culver, told BNA that the governor wants to make sure the credits are triggering the economic development and jobs each one of them promises. Seidler said the reports are just the start of the tax credit review process. The panel of department heads is expected to review all the comments received and then present the governor with recommendations.

They are expected to present their recommendations prior to the 2010 legislative session, which convenes January 11th. Governor Culver is not bound by the panel's recommendations but he is expected to propose legislation requiring greater transparency in tax credit programs regardless of its findings.

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We will continue to track this story and keep you updated in future podcasts and in an upcoming issue of the Novogradac Journal of Tax Credits.

Let's shift gears now to federal tax credits. I have an update on the tenant data collection requirements imposed on LIHTC allocating agencies by the Housing and Economic Recovery Act of 2008, or HERA.

One of the provisions of the Housing and Economic Recovery Act requires all states to collect tenant data on all projects that receive funding from the state housing agency, including low-income housing tax credit funded projects.

In March of last year, HUD published a notice seeking early input from applicable state agencies and other interested stakeholders, like our listeners and the LIHTC Working Group, which is chaired by my partner Mike Morrison, on a methodology or approach to meet the LIHTC tenant data collection requirement as imposed by the 2008 HERA. At that time, HUD said it anticipated publishing its formal proposal for implementing the data collection guidelines during the summer of 2009 but that proposal has not yet been released.

We learned last week that HUD is currently working on the proposal and a notice could be published in the early part of next year. When data transmission methods are in place, data collection could begin as early as the first or second quarter of 2010.

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Although no date has been officially set for the tenant data collection requirements, the Kentucky Housing Corporation announced last month that it is taking a proactive approach to gathering the required data.

Kentucky Housing created an application – called the Web Compliance Monitoring System – for owners and managers to use when submitting the required HERA data. The system is available on Kentucky Housing’s web site, www.kyhousing.org, and the agency is requiring that all project owners and management companies use the online data collection application. Responsible parties, meaning on-site managers or management companies, entering online data will need to register through the web site by Saturday, January 30th. Kentucky Housing has assigned property numbers to each project for the registration of the Tenant Data Collection Initiative. Letters containing the assigned property numbers were mailed to project owners and management companies on Tuesday, December 15th .

To register and use the system, you can go to www.kyhousing.org, select Housing Production, and then select the Web Compliance Monitoring System link. There is also a training video showing how to register; it’s located on the web site under the heading Tenant Data Collection Initiative. Questions regarding the Tenant Data Collection Initiative can be directed to Tim Carpenter or Veronica Ramsey by calling 1 (800) 633-8896.

So far, Kentucky is the first state to initiate a process for gathering this tenant data, but Novogradac & Company is

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investigating further. We will report on this topic in more detail in the LIHTC compliance section of the February issue of the Novogradac Journal of Tax Credits. We invite our listeners to also share with us their thoughts and knowledge on this topic. It should be different state by state, so we invite our listeners to share their knowledge.

Our final topic for this week is an update on funding provided through the LIHTC provisions of the American Recovery and Reinvestment Act.

On December 22nd, the Treasury Department announced that it has provided through the Section 1602 program more than \$4 billion in funding to spur the development of affordable rental housing. As our listeners know, the Section 1602 program provides cash grants in lieu of low-income housing tax credits. To date, 50 state and territorial housing authorities have received payments in lieu of tax credits, including awards in this round made to Arizona, Delaware, Georgia, Hawaii, Indiana, Michigan, Minnesota, New Mexico, Ohio, Pennsylvania, Texas and Utah, with Texas being a first-time recipient. For more information, including a complete list of funds awarded to states under the program to date, please visit www.taxcredithousing.com.

In related news, on December 5th, HUD posted a chart of funding it has provided through the Recovery Act's Tax Credit Assistance Program, or TCAP. According to that chart, of the \$2.25 billion appropriated through the program, approximately \$300 million - or 13 percent - has been committed by state housing agencies to

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fund 8,515 units of affordable rental housing. You can download the chart with this data from www.taxcredithousing.com, where you will find a breakdown of units per property funded, the amounts disbursed as of December 5th, and more. Just click on Hot Topics in the News menu and then choose the link that says American Recovery and Reinvestment Act of 2009.

Speaking of the Recovery Act, this week's Project Profile segment involves an affordable housing project funded with funds granted under the Section 1602 cash grant program.

Kansas Housing Resources Corporation awarded nearly \$4.3 million in Recovery Act funds to help finance the construction of 42 energy-efficient, affordable apartments in Chanute.

This announcement is particularly important because it will go to rebuilding housing lost due to natural disasters. The disaster-affected community of Chanute had nearly 75 homes and a sizable number of local businesses damaged by flooding in 2007.

The funding comes from the Tax Credit Exchange Program, created by the Recovery Act of 2009 with additional financing including a \$375,000 disaster assistance loan from the state.

The Cornerstone Apartments will offer two- and three-bedroom apartments to residents who earn less than 60 percent of the area median gross income. All units will feature ENERGY STAR® appliances, private entries, individual laundry facilities and garages. And first floor apartments will be handicapped accessible.

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The developer, Cornerstone Associates LLC, expects the property to open during the spring of 2010.

And before we wrap up our final Tax Credit Tuesday Podcast for 2009, let's take a special look ahead over the next year at the Tax Credit Calendar.

Novogradac & Company has 25 events currently planned for 2010. These events include webinars, conferences and workshops that will gather affordable housing, community development, historic preservation and renewable energy professionals.

These events will be held from coast to coast in cities including Miami, San Diego, San Francisco, New Orleans, Washington, D.C., Chicago and Las Vegas. We are planning:

- 4 national affordable housing conferences,
- 3 national new markets tax credit conferences and
- 2 national renewable energy tax credit conferences.

During the course of next year Novogradac & Company will also present at least:

- 4 workshops on low-income housing tax credit basics,
- 4 workshops on low-income housing tax credit property compliance
- 3 workshops on new markets tax credit basics,
- 2 workshops on renewable energy tax credit basics, and
- 1 advanced low-income housing tax credit workshop on tax credit finance.

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In addition, throughout the year we will present webinars and workshops to educate tax credit professionals on major developments and prepare them to submit winning applications for tax credits. To register for our events, we invite you to go to www.taxcredithousing.com. If you have any questions or suggestions for topics for the conferences or workshops, please send us an email at CPAs@novoco.com.

Well, that brings me to the end of this week's report.

Please join me again next year for the first Tax Credit Tuesday Podcast of 2010 when I will discuss the latest tax credit news, including a recent and favorable U.S. Tax Court decision regarding the allocation of Virginia state historic tax credits among partners in a partnership. Its good news for many purchasers of state income tax credits and you'll want to know more details.

This is Michael Novogradac and I'll be back next year. Thanks for listening.

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