Summary: October 16, 2018

In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, provides an update on opportunity zones regulations. He also talks about a draft tax form for claiming the historic tax credit, the congressional election recess, state fact sheets on the importance of the low-income housing tax credit and the Senior Affordable Housing Tax Credit Act (S. 3580). He closes with other topics such as support for the historic tax credit among November election candidates and a filing extension for taxpayers affected by Hurricane Michael.

Summaries of each topic:

GENERAL NEWS

OZ Regulations

- You may have seen this on my Twitter feed last week, but Sen. Tim Scott said he expects opportunity zones regulations to be released by the end of October.
- Now I expect the initial guidance will be interim, which means you can rely on it, as well as being proposed.
    - There will likely be a 60-day public comment period, followed by final guidelines, maybe before the end of the year, but I wouldn’t be surprised if it dragged on.
- Now these long-awaited regulations are critical.
- Equity investments must be made by the end of calendar year 2019 for opportunity zones investors to realize the full benefits of the 15 percent tax basis step-up.
    - Now that’s because opportunity fund investments must be held for at least seven years to qualify for the full 15 percent benefit, and the opportunity zones incentive is set to expire in the year 2026.
- Now our director of public policy and government relations, Peter Lawrence, wrote a Notes from Novogradac blog post on the wait for the guidance.
- In the blog post, Peter noted and wrote that some investors have moved forward with opportunity funds even without additional guidance from the IRS.
- However some, I’d say many, stakeholders are waiting for more concrete guidance before moving forward.
- Now if you have questions about the opportunity zones incentive or you would like to join our OZ Working Group, I encourage you to contact my partner John Sciarretti.
    - He’s in our Dover, Ohio office.
- I’ll include his email address and a link to the Notes from Novogradac blog post in today’s show notes.

Form 3468

- Now speaking of changes related to tax reform, obviously the opportunity zones incentive is one, the IRS recently posted an early release draft of Form 3468 for the 2018 tax year.
- So why do you care about Form 3468?
    - Well, Form 3468 is familiar to those in the historic tax credit (HTC) world.
    - It’s the form that’s used to claim your federal HTCs on your income tax return.
- The early draft release of Form 3468 indicates that taxpayers will claim the HTC at 4 percent per year over five years, beginning with the year their property is placed in service.
- Now you’ll remember that the federal HTC survived tax reform last year, but <u>how</u> you claim the credit, or how the credit’s claimed by taxpayers has changed.
    - Instead of being eligible to be claimed in one year, the credit now is recognized ratably, where you claim it on a ratable basis, over five years.
        - It was unclear what ratable means.
    - Given this form, it appears the 20 percent would be claimed as 4 percent a year over five years.
    - Now in fact, we still don’t know for sure that the credit will be taken at 4 percent per year.
    - That’s because this is an early release draft.

   - The form does still need final approval and there can be changes between the draft form and the final form.
- Now let me also remind you that the five-year provision applies only to projects not subject to transition rules made in tax reform.
   - Those transition rules allowed taxpayers to claim the 10 percent rehabilitation credit, that's for properties originally placed in service before 1936, and that is a credit that was repealed as part of tax reform.
   - Well, you can claim the 10 percent rehabilitation credit if you begin your 24-month rehabilitation period test within 180 days of the law's enactment.
   - That means that any qualified rehabilitation expenditures incurred by taxpayers before Dec. 31, 2020, would be eligible for 10 percent rehabilitation tax credits.
- Also under the transition rules, taxpayers could also claim the 20 percent HTC in one year if they met two standards.
   - First, they had to have ownership of the property or have entered into a long-term lease of the property as of Dec. 31, 2017.
   - And they also had to begin their 24-month measurement period for the substantial rehabilitation test by June 22, 2018.
- Now I do have one additional note.
- The 24-month measurement period can be changed, or an be 60 months, for projects that are approved by the National Park Service as phased rehabilitations
- The new form, by the way, the new draft form, includes a way to take both the 20 percent credit and the 10 percent credit for properties that are operating under the transition rules.
- Now a final draft of the form is expected to be posted sometime this month.
- I would encourage you to subscribe to Novogradac's free industry news alerts, so you'll be notified as soon as those forms, the final forms, are available.
- Obviously, we'll also keep you updated here as well.

Congressional Recess
- So let's turn now to news from Congress.
- The Senate has left to go campaign.
- The Senate left two weeks early.
- Now the Senate's going to be out through the Nov. 6 election and is scheduled to return on Tuesday, Nov. 13.
   - That's four weeks from today.
- Now the House has been on recess since Sept. 28 and they'll return on Nov. 13 as well.
- Now once the House and Senate return from their recess, the week after the election, lawmakers will have three-and-a-half weeks to pass fiscal year 2019 appropriations bills.
- Five of the 12 annual spending bills were signed into law before the start of the fiscal year on Oct. 1.
- The remaining seven spending bills, including the ones that funds HUD and Treasury, still need to be passed before the Dec. 7 continuing resolution date is reached.
- Now the threat of another partial government shutdown, especially with regard to funding a U.S.-Mexico border wall, will likely play a factor in the lame-duck session of Congress.
- Speaking of which, be sure to tune in to a special mid-term election results podcast.
   - We're going to have it the day after the election: Wednesday, Nov. 7.
- Now in that special episode, I'm going to recap election results and how they could affect:

  - lame-duck negotiations,
  - membership and leadership of tax-writing committees in the next Congress, as well as
  - the future of tax legislation, such as Tax Reform 2.0, technical corrections, tax extenders and more.
- Now you can ensure that you're alerted as soon as the Nov. 7 episode is available by subscribing to the Novogradac Tax Credit Tuesday podcast.
- Now you can subscribe on iTunes and you can follow our podcast RSS feed.
- I'll tweet links to both these subscription methods.

ACTION Campaign State Fact Sheets

- Now, let's move on to the topic of affordable housing.
- The ACTION Campaign recently updated its fact sheets.
- Fact sheets on the impact of the low-income housing tax credit (LIHTC) in every state.
- Now many of our listeners have seen and used these fact sheets to demonstrate the importance of the LIHTC in their own states, as well as in various Congressional districts.
- The fact sheets report how many homes were developed, or preserved, using the LIHTC in each state since the inception of the program in 1986.
  - Other data points in the fact sheets are the number of jobs the housing credit supports annually, as well as how much tax revenue and local income the credit generates.
- There is one important update this year: the data now shows what impact a 50 percent increase in the LIHTCs, through the allocation recommendation or provision in the Affordable Housing Credit Improvement Act, would have on each state.
- Now for example, in Texas a 50 percent housing credit allocation increase could help finance more than 22,000 additional affordable housing units over the next 10 years.
- Looking at California?
- There, the 50 percent increase in housing credit allocations could finance another 31,000 affordable housing units over the next decade.
- Nationally, Novogradac calculations found that a 50 percent increase in LIHTC allocation authority would allow more than 264,000 units of additional affordable housing to be built in the next 10 years.
- Now on each state fact sheet, the ACTION Campaign calls on Congress to:
  - Expand the LIHTC,
  - To strengthen the credit by making the program more streamlined, and
  - To preserve multifamily housing bonds, which finance about half of all LIHTC properties.
- The state fact sheets can be an important resource for affordable housing advocates to show how important the LIHTC is for building and preserving affordable housing.
- I will include a link to the updated state fact sheets in today's show notes.
- The ACTION Campaign does expect to release district fact sheets updated with 2016 data in the coming weeks.
- We also expect the ACTION Campaign to release fact sheets on the impact on affordable housing production of the minimum 4 percent credit using Novogradac calculations.
- So, stay tuned for that.

Seniors Affordable Housing Tax Credit Act

- Continuing with the topic of affordable housing, Sen. Dean Heller of Nevada introduced last week S. 3580.
- That bill would incentivize housing property owners and developers to rent to low-income seniors at restricted rents.
- More specifically, seniors living in those apartments would pay no more than 30 percent of their income for rent and utilities.
- States would receive $1.75 per capita or a $2 million minimum amount in senior renter credit authority.
- I’ll give more details on the bill in next week’s podcast.

Other News

- Turning to other news, 98 percent of Congressional candidates who responded to a survey from Preservation Action said that they support the federal HTC.
    - Preservation Action sent surveys to candidates from the House and Senate in all 50 states and they received 150 responses.
    - The 98 percent support for the historic credit wasn't the only result.
    - Ninety-nine percent of those who responded said they support the Historic Preservation Fund, and
    - Ninety-six percent said they support considering the impact of potential infrastructure legislation on historic resources.
    - Now I'll post a link to the survey results in today's show notes.
- And meanwhile, the IRS last week extended the deadline for certain individual and business tax returns for those affected by Hurricane Michael.
    - Certain tax payments also got an extension.
    - The deadline for those is now Feb. 28, 2019.
    - This does apply to any area that has a major disaster declaration by the Federal Emergency Management Agency or FEMA.
    - The change postpones various tax filing and payment deadlines as well, those that started Oct. 7 of this year.

RELATED RESOURCES

Opportunity Zones Regulations

Email John Sciarretti
Opportunity Zones Working Group
Notes from Novogradac, "What Will it Take to Get OZ Participants off the Sidelines?"

Form 3468

Early release draft of Form 3468

Congressional Recesses

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