



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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**EXECUTIVE DIRECTOR**  
Mark Stivers

DATE: April 11, 2017

TO: Tax Credit Stakeholders

FROM: Mark Stivers, Executive Director

SUBJECT: Proposed Emergency Regulation Changes with Initial Statement of Reasons

The prospect of federal tax reform legislation has resulted in a precipitous and drastic change in the tax credit market. Many projects awarded tax credits in 2016 now face funding shortfalls, and developers are experiencing significant project delays as a result of having to arrange other gap financing. In response, the Tax Credit Allocation Committee (TCAC) extended readiness deadlines for 2016 9% projects. In March 2017, the Committee adopted emergency regulations to allow certain projects to exchange 2016 credits for 2017 credits in order to extend their federal placed in service deadline. This permission was limited to new construction projects that received reservations of 9% tax credits in the second round of 2016 or that were pursuing the hybrid 9%/4% tax credit structure.

TCAC staff now is proposing to expand the authority to exchange 2016 credits for 2017 credits to 2016 first round new constructions projects that did not receive full readiness points. In order to accomplish this, a regulation change is required. Given the unforeseen circumstances, the need to act quickly to keep these projects alive, and the desperate need for affordable housing in California, staff proposes this regulatory change as emergency regulations.

Attached for public review and comment is the regulation change proposed by TCAC staff along with a statement of reasons. Changes to the current regulations are indicated with red type. The target date for regulation change adoption is May 17, 2017. Interested persons wishing to express their views on the proposed regulation changes may submit written comments to TCAC by 5:00 pm on Friday, April 28, 2017. Comments should be emailed to [mark.stivers@treasurer.ca.gov](mailto:mark.stivers@treasurer.ca.gov), preferably in a Word document or in an electronic rather than scanned pdf. format that allows for copying. While TCAC welcomes public comments, staff encourages commenters to be sparing and brief given the short timeframe for staff to turn around responses. Persons who have questions may contact me directly at in lieu of submitting formal comments.

## Section 10325.5

### Proposed Change

10325.5(b) A new construction project that received a reservation of 9% tax credits in the second round of 2016, that received a reservation of 9% credits in the first found of 2016 without full readiness points, or that is receiving permission pursuant to subdivision (a) may elect to return all of the 2016 Federal Credit, and State Credit if applicable, in exchange for a new reservation and allocation of 2017 Federal Credits, and State Credits if applicable.

- (1) If pursuing a hybrid structure pursuant to subdivision (a), the election shall occur at the time the revised 9% and new 4% applications are submitted. If the applicant elects to return the 2016 9% Federal Credit, and State Credits if applicable, upon acceptance of the 4% tax credit reservation, the reservation and carryover allocation of the 9% Federal Credits and the reservation of State Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant. The Committee concurrently shall issue a new reservation of 9% Federal Credits, and State Credits if applicable, to the project in an amount equal to or less than the amount of Federal and State Credits returned by the project to the Committee, in accordance with the revised 9% reservation.
- (2) If the project is not pursuing a hybrid structure pursuant to subdivision (a), the election shall occur in the form of a written request submitted to CTCAC prior to any deadline the Executive Director may establish. The reservation and carryover allocation of the 9% Federal Credits and the reservation of State Credits returned pursuant to this subdivision shall be deemed cancelled by mutual consent pursuant to a written agreement executed by the Committee and the applicant. The Committee concurrently shall issue a new reservation of 9% Federal Credits, and State Credits if applicable, to the project in the amount of the Federal Credits and State Credits returned by the project to the Committee.

**Reason:** In the face of unforeseen disturbances in the tax credit markets, staff hopes to see as many 2016 9% tax credit projects as possible close financing gaps and complete construction. Given the delays caused by the need to seek additional financing, the threat of losing tax credits for a future failure to meet the federal placed in service deadline has been a barrier to closing financing. Previous regulation changes allowed certain 2016 new construction projects to exchange their credit year in order to extend their federal placed in service deadline. Staff did not generally open up this authority to first round 2016 new construction projects because almost all first round projects had closed construction financing and begun construction by December 2016, with a few more closing by the extended March 2017 readiness deadline. There is, however, a class of 2016 first round new constructions projects that did not receive full readiness points and did not have a March 2017 readiness deadline. This class of projects likewise now faces the federal placed in service deadline as a barrier to closing financing. Similar to the second round 2016 new construction projects, staff proposes to allow 2016 first round new constructions projects that did not receive full readiness points to exchange their 2016 credits for 2017 credits in order to extend their federal placed in service deadline to December 31, 2019.