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Mr. Paul F. Handleman
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)
Internal Revenue Service
Washington, D.C.

Dear Mr. Handleman:

On December 26, 2001 the Internal Revenue Service published temporary regulations (the 'Temporary Regulations") in the Federal Register (66 FR 66307) regarding the new markets tax credit. The following request appears in the "Explanation of Provisions" section of the Temporary Regulations:

Although the temporary regulations do not provide specific rules on double tax benefit issues, the IRS and the Treasury Department request additional comments on what Federal tax benefits should limit the new markets tax credit.

This letter is submitted on behalf of the National Trust for Historic Preservation in response to this request for additional comments.

By way of background, the National Trust for Historic Preservation is a private, non-profit organization chartered by Congress in 1949 and dedicated to protecting historic buildings and the neighborhoods and landscapes they anchor. Among other things, the National Trust assists both the public and private sectors in bringing new life to historic downtown business districts and in revitalizing other low- and moderate-income neighborhoods, through preservation, encouraging strategic use of historic tax credits and other economic development tools. The National Trust's Main Street program is widely recognized as one of the nation's most effective economic development strategies for older declining commercial corridors.

The National Trust has extensive experience with efforts to stimulate the rehabilitation of historic buildings for office, commercial and retail uses. Regardless of whether the property is located in a low-income community or elsewhere, there is often a cost differential between a historically sensitive rehabilitation and a "conventional" rehabilitation. The 10% or 20% rehabilitation tax credits provided for under Section 47 of the Internal Revenue Code (the "Section 47 credits") address this differential with a targeted and relatively "shallow" subsidy (reflecting only 10 or 20 percent of the qualified rehabilitation expenditures incurred). This formula does not in any way take account of the special impediments faced by the developers of properties located in low-income communities, be they historic or conventional. The new markets tax credits address those impediments. Accordingly, a project's eligibility for new markets tax credits and one of the Section 47 credits is appropriate in view of the twin difficulties associated with undertaking historically-sensitive rehabilitations of National Register and other historic properties located within low-income communities.

Based on the advice of national tax counsel, we believe that a Community Development Entity (a "CDE") can qualify for the new markets tax credit and one of the Section 47 credits with respect to the same qualified low-income community investment. This assumes, of course, that the other general requirements of the Temporary Regulations are satisfied (including, for example, the requirement that the property in question is not residential rental property). We also believe that historic buildings in low-income areas that

would otherwise remain derelict can become catalysts for community revitalization through investments made possible by combining the new markets tax credit and the Section 47 credits. If this understanding of the Temporary Regulations is incorrect, we ,encourage you to open a dialogue on the topic. Moreover, we request that you reject any suggestion that the Section 47 credits should limit the new markets tax credit.

Sincerely,

Kathryn Higgins
Vice President, Public Policy