



## Clinton & Trump on Tax Credit Incentives: Road Map or Rorschach Test?

MICHAEL J. NOVOGRADAC, CPA, NOVOGRADAC & COMPANY LLP

**A** road map or a Rorschach test?

For the tax credit community, this year's major-party nominees for president present a stark contrast: Democrat Hillary Clinton has public stances on nearly every major tax credit issue, with detailed proposals and a lengthy legislative history. Republican Donald Trump is a tax credit interpretation puzzle, painting in broad strokes that require inferences and guesses. Clinton has a long paper trail. Trump has left clues, but nothing concrete.

The candidates' stances on the low-income housing tax credit (LIHTC), new markets tax credit (NMTC), historic tax credit (HTC) and renewable energy production tax credit (PTC) and investment tax credit (ITC) are in line with their general records. Clinton has a history of advocacy, based on eight years as first lady and eight more as a United States senator. Trump, as befitting someone who has never stood for election at any level, has no legislative record and many of his populist stances require educated guesses on where he stands on such programs as affordable housing, community development, historic preservation and renewable energy.

Candidates' stances on the issues are especially significant this election year.

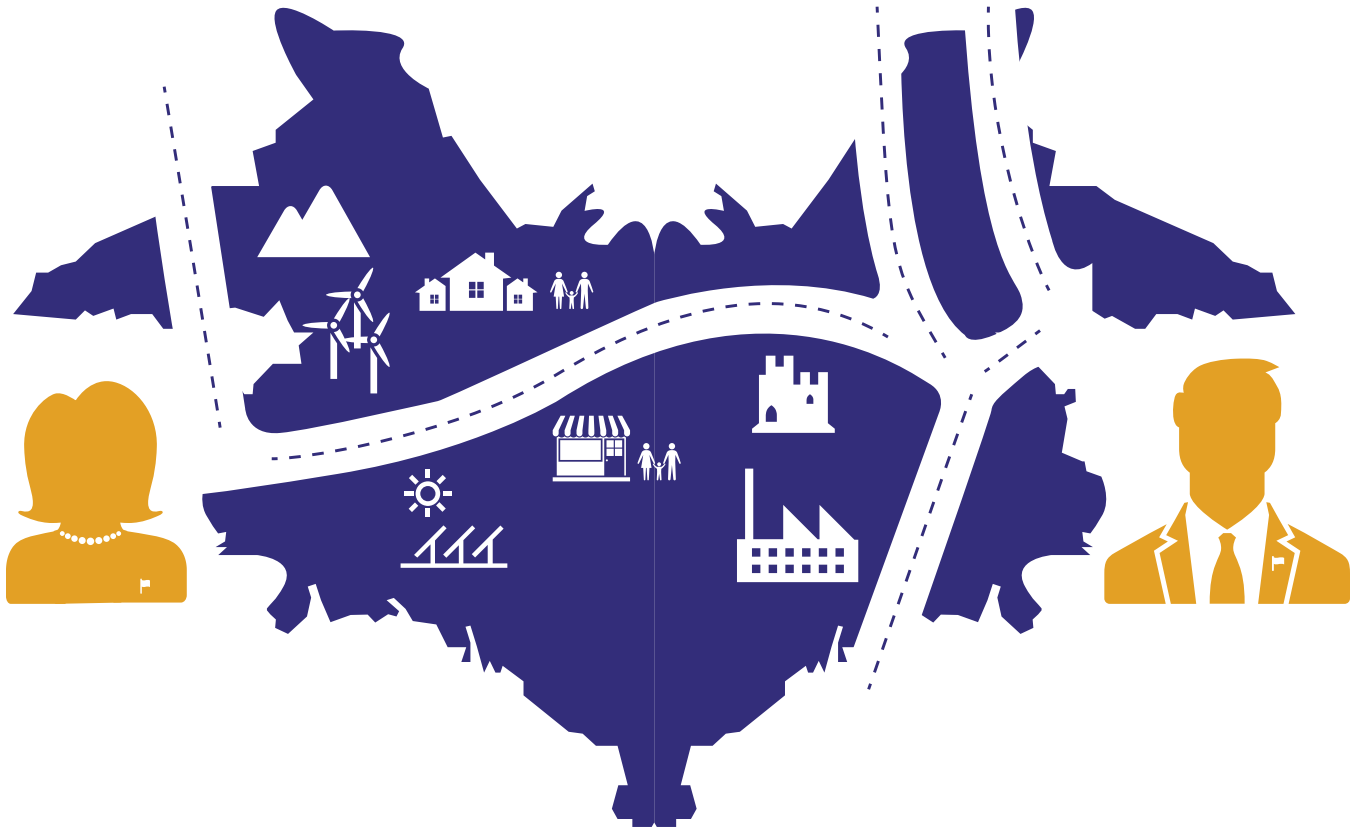
"There *will* be a tax bill in 2017 and by the end of the next Congress, they'll pass a tax bill of some kind," said Bob Rapoza, founder and president of Rapoza Associates, a lobbyist who focuses on community development, including leading the New Markets Tax Credit Coalition. "We can presume that what the president says will form or contribute to [tax reform], so it's pretty important."

With Trump, it's hard to nail down specifics. A prime example came when his campaign issued a tax proposal late last year—highlighted by a proposed tax cut for all income levels and the quadrupling of the standard deduction amounts. The Trump plan called for ending some tax preferences, but without specifics. The Tax Policy Center, a partnership between the Urban Institute and Brookings Institution, concluded that while it was unclear which tax preferences Trump proposed to eliminate, it "*assumed* the plan repeals" the LIHTC, HTC, ITC and PTC, as well as allowing the NMTC to expire..

That's symptomatic of the problem: The Tax Policy Center *assumed* Trump's plan would do that, but

continued on page 2

continued from page 1



couldn't say for sure. Trump has promised to be "the greatest jobs president that God has ever created," but he has been silent about specific tax credits although—as we'll note later—he has benefited from at least one.

Clinton, meanwhile, has taken public stands on affordable housing and community development and has an eight-year voting record with renewable energy tax credits.

As we get closer to Election Day, tax credit stakeholders seek certitude.

"The one certainty is that tax reform and all that it implies will be part of the conversation no matter who wins in November," said Orlando Cabrera, of counsel at Squire Patton Boggs and a leading expert on affordable housing. "Secretary Clinton has previously been supportive of the [low-income housing] tax credit, so my sense is that tax reform from the Democratic side would preserve the concept and the economic value of the [LIHTC]. On

the other hand, Trump is impenetrable on the issue of tax reform. His many and various positions don't lend themselves to providing a sense of what to expect ... His plan would cause enormous revenue stress, which leads me to believe that whatever his plan might be, it would be inimical to maximizing the credit's value."

With the primary campaigns and political conventions in the rear-view mirror and the general campaign about to hit stride, here's what we know (and don't know) about the leading presidential candidates and their stances on key tax credit issues.

### LIHTC

In February, Clinton announced an economic agenda that included significant affordable housing elements. Her agenda included a \$25 billion housing investment program that it said was crafted to "lift more families into sustainable housing ownership" with down payment assistance, more housing counseling programs, more affordable rental housing and other options.

continued on page 3

continued from page 2

While much of the plan focused on home ownership, it also addressed what it called “the skyrocketing rise of rental costs in the areas of opportunity.” Clinton’s campaign statement said affordable rental housing can’t keep up with demand and called for plans to protect the current allocation of LIHTCs and expand the credit in areas where demand far outstrips supply. The plan also called for a competitive process to award the credits to cities and states in the best position to use them effectively.

Clinton also vowed to work to expand the choices that recipients of housing vouchers have in deciding where to live. “Today those with vouchers must often choose among the very pockets of poverty the vouchers are intended to allow them to leave,” she wrote, adding that she believes the range of options should be expanded to include neighbors with more jobs and better schools.

Trump, who made his unverified fortune in real estate (one credit we *know* Trump is familiar with is the New York State School Tax Relief Program, which provides a modest tax benefit to those, like Trump, who both apply and demonstrate that their incomes are below the half-million-dollar threshold) and whose father was a workforce housing developer using programs that facilitated affordable but unsubsidized multifamily housing, such as the Federal Housing Administration’s multifamily loan programs and New York State’s Mitchell-Lama program before the LIHTC was created, has been largely silent on the LIHTC and other housing programs.

### NMTC

Clinton called for expansion and permanency of the NMTC, pointing out that it was implemented during her husband’s administration. She called for adding even more allocation for communities hit hardest by economic problems. Her campaign website: “Clinton is committed to making the NMTC permanent, doubling the amount of credits available to low-income

communities and adding new credits for communities hardest hit by decline.”

“Clinton has been pretty open in her support of the new markets tax credit and other similar programs,” said Rapoza. “She’s been quite out there about the NMTC, which makes a lot of sense. It came from her husband and there is a lot of crossover with people who worked with President Clinton.”

While Trump has been silent on the NMTC, Rapoza said it’s significant that Rep. Tom Reed, R-N.Y., was an early and vocal supporter of the candidate. “As the nominee, [Trump is] going to want as many people with him as possible,” Rapoza said. “People like Rep. Reed, I presume, will make their voices heard.”

### HTC

John Leith-Tetrault, founder and public policy advisor of the National Trust Community Investment Corporation and chairman of the Historic Tax Credit Coalition, doesn’t claim any insider knowledge of the candidates’ views on the HTC, but says they are uniquely informed. “Each of them is probably more aware of [the HTC] than any president ever,” he said. “But it all gets down to who does what on tax reform.”

Trump is using HTCs to help finance the redevelopment of the Old Post Office Pavilion in Washington, D.C., into a luxury hotel. Leith-Tetrault points out, “He’s certainly aware of the credit and has used it.”

Clinton hasn’t taken a public stand on the HTC, which like the LIHTC is a permanent part of the tax code, but Leith-Tetrault said her role as the first honorary chairwoman of the Save America’s Treasures grants program (launched at the end of her time as first lady) indicates her interest in historic preservation. “We don’t know whether that experience makes her more likely to support the historic tax credit, but at least it shows an awareness of it,” Leith-Tetrault said.

continued on page 4

continued from page 3

Leith-Tetraault said the fact that Clinton is a Democrat also makes her a more likely HTC supporter than Trump. “Like it or not, [the HTC] is more of an urban-focused program,” he said, “which means she would be more likely to understand the incentives needed for development.”

### ITC, PTC

Clinton had five opportunities as a senator to vote on extending the PTC, with the final three including the ITC. She voted yes four times, voting “no” only on the landmark Energy Policy Act of 2005 that created the ITC. Clinton was one of 26 votes against 74 senators who supported the legislation, a choice that she explained three years later as being based on what she considered enormous tax breaks to the gas and oil industry.

A year ago in Iowa, Clinton highlighted her support for renewables, specifically the PTC. Clinton said, “We need to change the tax incentives. We need to continue the production tax credits, we need to be investing in solar and wind and advanced biofuels and yes, energy-efficiency and there are millions of jobs if we do that right.”

A few months later, Trump acknowledged the same economics. “I will say wind is a problem because it’s very expensive to build the towers ... as you know, when you have \$40 oil, it’s not economic,” he said in Newton, Iowa. “So they’re going to have to do a subsidy, otherwise wind isn’t going to work ... Wind will need subsidies. It’s going to have to have subsidies.”

Whether that constitutes support for the five-year phase-down of the ITC and PTC that was passed last year remains to be seen.

### Conclusion

Tax reform seems likely to continue to be on the Congressional agenda next year, the tax credit

community is in a familiar position: needing to prove the value of credits to encourage desirable development and to help create economic and other benefits—whether that is the LIHTC, NMTC, HTC, ITC or PTC.

Clinton’s legislative and policy history gives an indication of support for many of the credits, while Trump’s broad-strokes approach makes him as much of a mystery man as he was before he began his White House quest.

Boston Capital’s David Gasson, who is also the executive director of the Housing Advisory Group, summed up the feelings of many in the tax credit community. “I am heartened that Secretary Clinton’s campaign has proposed an aggressive approach for affordable housing and economic development in low- and moderate-income communities,” said Gasson. “The fact that her agenda specifically mentions the low-income housing tax credit, the new markets tax credit and the Affordable Housing Trust Fund, are signs that a Clinton administration will support efforts by the affordable housing community to expand resources and secure the future of the LIHTC and the NMTC.

“We continue to seek information from the Trump campaign on what Mr. Trump’s housing and economic development agenda might be,” Gasson added. “Absent any information, we can only refer to his tax reform proposal which, if enacted, would make it difficult to retain the LIHTC as a preference in the Internal Revenue Code. Our industry will continue to seek information, as well as offer policy suggestions to the Trump campaign, as we have with the Clinton campaign, with our goal being a strong affordable housing agenda for whomever wins the election in November.”

Rorschach test or road map? We have a few months to find out. ❖

---

*This article first appeared in the August 2016 issue of the Novogradac Journal of Tax Credits.*

© Novogradac & Company LLP 2016 - All Rights Reserved

*Notice pursuant to IRS regulations: Any U.S. federal tax advice contained in this article is not intended to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties under the Internal Revenue Code; nor is any such advice intended to be used to support the promotion or marketing of a transaction. Any advice expressed in this article is limited to the federal tax issues addressed in it. Additional issues may exist outside the limited scope of any advice provided – any such advice does not consider or provide a conclusion with respect to any additional issues. Taxpayers contemplating undertaking a transaction should seek advice based on their particular circumstances.*

*This editorial material is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding property compliance or any other material covered in this article can only be obtained from your tax advisor. For further information visit [www.novoco.com](http://www.novoco.com).*



## EDITORIAL BOARD

PUBLISHER

**Michael J. Novogradac, CPA**

EDITORIAL DIRECTOR

**Alex Ruiz**

TECHNICAL EDITORS

**Michael G. Morrison, CPA**

**James R. Kroger, CPA**

**Owen P. Gray, CPA**

**Thomas Boccia, CPA**

**Daniel J. Smith, CPA**

## COPY

ASSIGNMENT EDITOR

**Brad Stanhope**

SENIOR WRITER

**Teresa Garcia**

STAFF WRITER

**Mark O'Meara**

CONTENT MANAGEMENT ASSOCIATE

**Elizabeth Orfin**

CONTRIBUTING WRITERS

**Jana Cohen Barbe**

**Roy Chou**

**Rebecca Darling**

**Dat Ksor**

**Bill Macrostie**

**Tim Zhang**

**Forrest Milder**

**Robert E. Richards**

**Ryan Rieger**

**John M. Tess**

**Jason Watkins**

## ART

CARTOGRAPHER

**David R. Grubman**

PRODUCTION

**Alexandra Louie**

**James Matuszak**

**Jesse Barredo**

## CONTACT

CORRESPONDENCE AND EDITORIAL SUBMISSIONS

**Alex Ruiz**

**alex.ruiz@novoco.com**

**415.356.8088**

ADVERTISING INQUIRIES

**Carol Hough**

**carol.hough@novoco.com**

**415.356.8040**

EDITORIAL MATERIAL IN THIS PUBLICATION IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSTRUED OTHERWISE.

ADVICE AND INTERPRETATION REGARDING THE LOW-INCOME HOUSING TAX CREDIT OR ANY OTHER MATERIAL COVERED IN THIS PUBLICATION CAN ONLY BE OBTAINED FROM YOUR TAX ADVISOR.

## ADVISORY BOARD

### LOW-INCOME HOUSING TAX CREDITS

**Bud Clarke**

BOSTON FINANCIAL INVESTMENT MANAGEMENT

**Jana Cohen Barbe**

DENTONS

**Tom Dixon**

BOSTON CAPITAL

**Rick Edson**

HOUSING CAPITAL ADVISORS INC.

**Richard Gerwitz**

CITI COMMUNITY CAPITAL

**Rochelle Lento**

DYKEMA GOSSETT PLLC

**John Lisella**

U.S. BANCORP COMMUNITY DEV. CORP.

**Philip Melton**

BELLWETHER ENTERPRISE

**Thomas Morton**

PILLSBURY WINTHROP SHAW PITTMAN LLP

**Mary Tingerthal**

MINNESOTA HOUSING FINANCE AGENCY

**Rob Wasserman**

U.S. BANCORP COMMUNITY DEV. CORP.

### PROPERTY COMPLIANCE

**Michael Kotin**

KAY KAY REALTY

**Michael Snowden**

HIGHRIDGE COSTA HOUSING PARTNERS

**Gianna Solari**

SOLARI ENTERPRISES INC.

**Kimberly Taylor**

HOUSING DEVELOPMENT CENTER

### HOUSING AND URBAN DEVELOPMENT

**Flynnan Janisse**

RAINBOW HOUSING

**Ray Landry**

DAVIS-PENN MORTGAGE CO.

**Denise Muha**

NATIONAL LEASED HOUSING ASSOCIATION

**Monica Sussman**

NIXON PEABODY LLP

### NEW MARKETS TAX CREDITS

**Frank Altman**

COMMUNITY REINVESTMENT FUND

**Merrill Hoopengardner**

NATIONAL TRUST COMMUNITY INVESTMENT CORP.

**Scott Lindquist**

DENTONS

**Matthew Philpott**

U.S. BANCORP COMMUNITY DEV. CORP.

**Ruth Sparrow**

FUTURES UNLIMITED LAW PC

**Elaine DiPietro**

ENTERPRISE COMMUNITY INVESTMENT INC.

### HISTORIC TAX CREDITS

**Jason Korb**

CAPSTONE COMMUNITIES

**John Leith-Tetrault**

NATIONAL TRUST COMM. INVESTMENT CORP.

**Bill MacRostie**

MACROSTIE HISTORIC ADVISORS LLC

**John Tess**

HERITAGE CONSULTING GROUP

### RENEWABLE ENERGY TAX CREDITS

**Bill Bush**

BORREGO SOLAR

**Ben Cook**

SOLARCITY CORPORATION

**Jim Howard**

DUDLEY VENTURES

**Forrest Milder**

NIXON PEABODY LLP

© Novogradac & Company LLP

2016 All rights reserved.

ISSN 2152-646X

Reproduction of this publication in whole or in part in any form without written permission from the publisher is prohibited by law.