

In this week's Tax Credit Tuesday podcast, Michael J. Novogradac, CPA, discusses updates for the recently released draft Forms 8996 and 8997 and their instructions. Next he talks about the INVEST Act, a bill that would set aside 10 percent of the new markets tax credit allocation for Indian and native lands. He then shares insight into the latest QEI report for new markets tax credit investments, and talks about the introduced Fulfilling the Promise of the Housing Trust Fund Act. He also talks about the web-based mapping tool that was announced by the U.S. Economic Development Administration. Finally, he discusses state-level news regarding opportunity zones, historic tax credits, low-income housing tax credits and renewable energy.

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GENERAL NEWS

Updated OZ Draft Form, Instructions

- Starting with opportunity zones forms, the IRS this month released updated draft instructions for Forms 8996 and 8997.
- Forms 8996 and 8997 are both important tax forms for the opportunity zones incentive. Form 8997 is used by investors in qualified opportunity funds.
- Form 8996 is used by a corporation or partnership to self-certify that they are a qualified opportunity fund.
- Form 8996 is also used by a qualified opportunity fund to annually report they met the 90% investment standard during the tax year.
- The Opportunity Zones Working Group previously commented on the Draft Form 8996, and what was needed in terms of IRS guidance. I'm happy to report that many of those suggestions were incorporated in the draft instructions.
- For example, the draft instructions include guidance on how a qualified opportunity fund may exclude from the 90 percent investment test any equity contributions received within six months of the testing date.
 - That is provided certain requirements are met with respect to that cash receipt.
- The working group also requested guidance on Part VI of the form.
 - That is where a qualified opportunity fund reports the value of its qualified opportunity zone stock or partnership investments.
- Specifically, we requested and received guidance on how to apportion both the value of the qualified opportunity fund's investments and the value of the investees', the businesses', tangible property by qualified opportunity zone tract.
- Another highlight or note:
 - By self-certifying, the taxpayer the corporation partnership is attesting that any stock or partnership interests used to satisfy the 90 percent investment standard are in an entity that satisfies the qualified opportunity zone business rules.
- While the draft instructions do provide a considerable amount of guidance, there are questions that remain.
- For example – it is unclear whether Cash held by a qualified opportunity zone business being held as reasonable working capital is treated as qualified opportunity zone business property, before it is expanded for tangible property.
 - The preamble to the regulations and one portion of the regulations suggests the answer is yes, however, a direct reading of the applicable regulation suggests no.
 - One of several areas we are going to need additional guidance from the IRS.
- So, these are some of the highlights of the draft instructions for Form 8996, as I noted used by the opportunity fund itself.
- As for the form itself, Form 8996, it is still in draft form, as it has not been finalized or updated since an earlier draft was released this past October.
- Let's turn back to Form 8997, the IRS released a draft of this form and its instructions. Form 8997 is required to be filed by taxpayers that invest in opportunity funds and it's used to report all qualified opportunity fund investments and dispositions.
- I will say there were no changes to the draft Form 8997.
- The draft instructions changed slightly, and the change was to be expected.

- That is that it now includes instructions for parent and subsidiary corporations that are a member of a consolidated group.
- These instructions were changed to comply with the changes from the proposed regulations included in the final regulations.
- As I said, we're talking about draft forms and instructions for the 8996 and 8997.
- I'll continue to monitor any future releases for additional guidance.
- In the meantime, I invite you to join the Opportunity Zones Working Group.
- It's a great way to stay in the loop on opportunity zones regulations and guidance and when they become final.
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- If you're interested, contact my partner John Sciarretti for information on how to join the group.

INVEST Act

- Turning now to legislative news, a bipartisan group of four senators introduced a bill this month to reserve or set aside 10 percent of the annual new markets tax credit allocation for investment in Indian and native lands.
- The bill would also establish a technical assistance pilot program to help Indian community development entities apply for new markets tax credit allocations.
- The bill is no. 3181, and its acronym is Inspiring Nationally Vibrant Economies Sustaining Tribes Act of 2020 or the INVEST Act.
- Sponsors of the bill are:
 - Republican Sen. Lisa Murkowski of Alaska,
 - Republican Sen. Dan Sullivan of Alaska,
 - Democratic Sen. Brian Schatz of Hawaii and
 - Democratic Sen. Mazie Hirono of Hawaii.

QEI Report

- Speaking of the new markets tax credit, the Community Development Financial Institutions Fund this month released an updated report on qualified equity investments, or QEI, made through the new markets tax credit.
- As of the Jan. 8 report, more than \$54 billion of equity had been reported finalized over the past 15 rounds of the new markets tax credit.
- The amount remaining to be finalized is about \$3.4 billion.
- However much of that \$3.4 billion is likely already soft circled and committed.
- Which brings me to a timely reminder for listeners: For prior allocatees of the new markets tax credit that have applied in this most recent application round, the deadline to meet QEI issuance and qualified low-income community investment requirements, or QLICs, is one week from this Friday. The deadline is Friday, Jan. 31st.
- In other words, if you applied for an allocation under the 2019 calendar year round, you are required by Jan. 31 to demonstrate that you issued the requisite minimum amount of QEIs and closed a minimum amount of QLICs.
- Make sure to finalize those issued QEIs in the CDFI Fund's Awards Management Information System, or AMIS.
- Make sure you record it timely.
- If you need assistance, please contact a Novogradac partner near you.

- I will include a link to our new markets tax credit services page in today's show notes.
- That page does include a list of all Novogradac partners who specialize in new markets tax credits.
- You can also meet many of our new markets tax credit specialists at our upcoming Novogradac 2020 New Markets Tax Credit Conference.
- The conference is in San Diego, Jan. 30-31.
 - That, once again is next Thursday and Friday, with pre-conference workshops on Wednesday.
- You won't want to miss it.
- The registration link is in today's show notes, and I will tweet it out as well.

Other News

- Turning to other news, Rep. Denny Heck of Washington, along with three cosponsors introduced legislation last week to increase funding for the National Housing Trust Fund.
 - The bill would redirect a portion of the guarantee fee levied by Fannie Mae and Freddie Mac to benefit the National Housing Trust Fund.
 - Currently, the guarantee fee is being used as an offset to pay for other priorities.
 - If enacted, the Fulfilling the Promise of the Housing Trust Fund Act would make the change effective Oct. 1, 2021.
- In opportunity zones news, the U.S. Economic Development Administration, the U.S. EDA, last week announced a web-based mapping tool with opportunity zones data.
 - The tool provides economic and demographic information on each zone.
 - That includes population in each tract, the unemployment rate and the average income per capita.
 - All of this is useful information when deciding where to invest opportunity fund investment dollar.
 - A link to the tool is in today's show notes. And I will tweet it out as well.
- Next, I have a lot of state-level updates on new legislation.
- The legislation addresses opportunity zones, historic tax credits, low-income housing tax credits and renewable energy tax credits.
- I won't go into too much detail with each of these, but you can learn more about these proposals in today's show notes.
- First up, opportunity zones.
 - Legislation in Oregon would remove the state from conformity with the Federal Internal Revenue Code regarding opportunity zones.
- The change would be effective for tax years beginning on or after Jan. 1, 2020.
 - In Maryland, a bill would remove that state from conformity with the Internal Revenue Code.
 - Another Maryland bill concerned state programs and how they relate to the federal opportunity zones incentive.
 - In Florida, legislation would create a series of tax credits for opportunity zones developments.
 - And in New Jersey, a bill would designate the state Department of Community Affairs to work with qualified opportunity zone businesses as a point of contact for other state assistance.
- Let's move on to housing.
- Several states last week introduced legislation, or I should say legislators in those states introduced legislation to create or modify state-level low-income housing tax credits.
 - In Indiana, a bill would create a 4 percent state low-income housing tax credit.
 - In Oklahoma, a bill would increase the annual state low-income housing tax credit cap to \$5 million.
 - Conversely, in Missouri a bill was introduced that would reduce the state cap to the lesser of 72.5 percent of the federal allocation or \$123 million.
 - In Hawaii, an introduced bill would clarify that certain Internal Revenue Code provisions do not apply to the state low-income housing tax credit.
- Provisions that would not apply include deductions, at-risk rules and passive activity loss.
- Similarly, several states have legislation to modify or expand historic tax credits.
 - A bill in New Jersey would create a state historic tax credit—that's good news.

- Virginia and Illinois both saw bills introduced to increase their state historic tax credit caps—the Virginia bill would increase its transaction cap and the Illinois bill would increase the statewide cap.
- In New York, legislation would make state historic tax credits transferrable.
- And Missouri there's a proposal to change several provisions of the state historic tax credit.
- Those provisions include the eligibility of properties in qualified census tracts and an increase in the amount of time from when you receive an allocation until you need to start rehabilitation.
 - The Missouri bill would also allow nonprofits to receive historic tax credits and would require a \$5 million allocation for historic county courthouses.
- Finally, I have some updates for state renewable energy tax credits.
 - Bills were introduced to create a state investment tax credit in Virginia and to extend the production tax credit in Arizona.
- Links to all of this state legislation are included in today's show notes.

Related Resources

Updated Form 8896, 8897

[Draft Form 8996: Qualified Opportunity Fund](#)
[Draft Form 8997: Initial and Annual Statement of Qualified Opportunity Fund Investments](#)
[Opportunity Zones Working Group](#)
[Email John Sciarretti](#)

INVEST Act

[Inspiring Nationally Vibrant Economies Sustaining Tribes Act of 2020](#)

QEI Report

[QEI Issuance Report \(Jan. 8, 2020\)](#)
[Novogradac NMTC Services](#)
[Novogradac 2020 New Markets Tax Credit Conference](#)

Fulfilling the Promise of the Housing Trust Fund Act

[H.R. 5599](#)

U.S. Economic Development Administration

[Web-based mapping tool](#)

Oregon Opportunity Zones

[Draft of legislation](#)

Maryland Opportunity Zone Bill

[H.B. 45](#)

Florida Enterprise Act

[H.B. 1429](#)



New Jersey Legislation

[S. 412 to create state historic tax credit](#)

[S. 496 for opportunity zone businesses](#)

Indiana 4 Percent State LIHTC

[H.B. 1381](#)

Oklahoma State LIHTC Cap Increase

[S.B. 1578](#)

Missouri State Legislation

[S.B. 549 for state LIHTCs](#)

[S.B. 819 for state HTCs](#)

Hawaii IRC Clarification

[H.B. 956](#)

Illinois Historic Tax Credits

[H.B. 4054](#)

Virginia Legislation

[H.B. 1156](#)

[Legislation to create state ITC](#)

New York Historic Tax Credits

[A. 8491](#)

Arizona Renewable Energy Credits

[H.B. 2290](#)



Novogradac Webinar on Opportunity Zones Final Regulations

[Register for On-Demand OZ Regulations Webinar](#)