Summary: March 10, 2020

In this week's Tax Credit Tuesday podcast, Michael J. Novogradac, CPA, talks about low-income housing tax credit and private activity bond allocation limits in 2020. Then, he shares an update on cosponsors for the Affordable Housing Credit Improvement Act, and discusses an energy extenders amendment to the American Energy Innovation Act introduced by Senate Finance Committee Ranking Member Ron Wyden. Next, he talks about a recommendation from the California Tax Credit Allocation Committee that all developers applying for 4 percent low-income housing tax credits apply now for tax-exempt bonds. He then discusses a California Assembly Bill that would create a state-level new markets tax credit incentive. He closes with an update about the enactment of a Wisconsin state-level opportunity zones bill that doubles the capital gains exclusion for Wisconsin qualified opportunity funds.

Summaries of each topic:

GENERAL NEWS

LIHTC, PAB Caps for 2020

- The affordable housing community will be pleased to learn that there will be slightly more low-income housing tax credit and private activity bond allocation available in 2020, as compared to 2019.
- This is according to calculations we've made at Novogradac based on population figures released by the IRS last week.
- More allocation authority is nationally good news because it generates more tax credit equity to fund more affordable rental housing.
- As you know, the low-income housing tax credit and private activity bond limits are based on population.
- In order to make these calculations, the IRS annually publishes population figures for all 50 states, the District of Columbia and U.S. territories.
- Then, states, the District of Columbia and U.S. territories use these population figures to calculate how much low-income housing tax credit and private activity bond allocation they get for that calendar year.
- This year, the low-income housing tax credit ceiling for each state is the greater of about $2.81 multiplied by the state population or about $3.2 million.
    - Nationally, low-income housing tax credit allocation authority will be $953 million or $9.53 billion over the 10-year credit stream because the credit is taken over 10 years.
    - That's a $22 million increase from the annual amount last year.
- For private activity bonds, the state ceiling in 2020 is the greater of $105 multiplied by the state population or about $322.8 million.
    - There will be about $38 billion in private activity bond allocation authority available nationwide this year.
    - That's an increase of about $200 million over last year.
- Taking a closer look at the population figures, the most populous states remain
    - California
    - Texas
    - Florida and
    - New York
- California will receive $111.1 million in low-income housing tax credit authority.
    - Texas will be second most at about $81.5 million,
    - Florida will get about $60.4 million
    - And New York will get about $54.7 million.
- As I mentioned earlier, the small-state minimum for the low-income housing tax credit is $3.2 million.
- Eight states, the District of Columbia and four U.S. territories will receive the small-state minimum.
    - Those will be the same 13 entities that received the small-state minimum last year.
- Overall, the national population did increase by about 1 million people.
- That's a 0.3 percent year-over-year gain.
- How does that growth compare to prior years?
    - Well, it's much less.

  - For comparison, the average annual growth rate in the U.S. from 2015 through 2019 was nearly 0.7 percent.
  - The lowest growth rate in that period was 0.4 percent, with a high being 0.9 percent.
  - So as you can see, 0.3 percent growth is comparatively small.
- While the aggregate national population increased, 17 states actually lost population in 2019.
- Unfortunately, 12 of those 17 states with a decreasing population will also see a decrease in private activity bonds this year because their population puts them above the small-state minimum.
- However, the silver lining is that all 17 states that lost population will actually still see an increase in their low-income housing tax credit allocation.
  - That's thanks to a provision in the fiscal year 2018 omnibus appropriations bill.
- The omnibus bill provides a baseline 12.5 percent increase in low-income housing tax credit allocations for 2018 through 2021.
- According to Novogradac's estimates, the temporary 12.5 percent increase will create an additional 28,400 affordable homes over 2018-2027, as compared to previous law.
- You can read more about the population figures and Novogradac's projections of future 9 percent low-income housing tax credit allocations on my Notes from Novogradac blog.
- I'll tweet the link.

Affordable Housing Credit Improvement Act Sponsors

- Let's stay on the topic of tax credits and affordable housing, as I have a brief update on legislation that would greatly enhance and expand the low-income housing tax credit.
- I'm talking, of course, about the Affordable Housing Credit Improvement Act.
- The legislation would dramatically increase funding for affordable rental housing.
- The bill is bipartisan and bicameral and in the House, we're very close to having a majority of members as sponsors.
- At the time of this recording, the House bill has 217 cosponsors.
  - That's one cosponsor away from having a majority of 218.
- Reaching a majority milestone will hopefully help create more momentum for remaining members to cosponsor.
- And most importantly, that this majority milestone will further encourage congressional leaders to pass significant parts of the bill, if not the bill entirely.
- As a reminder, the House bill's lead sponsors in the House are
  - Democrat Suzan DelBene of Washington,
  - Republican Kenny Marchant of Texas,
  - Democrat Don Beyer of Virginia and
  - Republican Jackie Walorski of Indiana.
- In case you're wondering about the other chamber of Congress, the Senate version of the bill currently has 38 cosponsors.
- Lead Senate sponsors are
  - Democrat Maria Cantwell of Washington,
  - Republican Johnny Isakson of Georgia,
  - Senate Finance Committee Ranking Member Ron Wyden of Oregon and
  - Republican Todd Young of Indiana.
- I should note that Sen. Isakson resigned from Congress at the end of December, but he remains on the list of sponsors.

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- The Affordable Housing Credit Improvement Act would provide a 50 percent increase in per-capita and small state minimum allocations.
- The Affordable Housing Credit Improvement Act would also create a permanent minimum 4 percent low-income housing tax credit percentage.
- The 50 percent cap increase and the minimum 4 percent credit are the two headline provisions that have been retained from other versions of the bill introduced in previous sessions of Congress.
- Two provisions new to the current bill would
    - Provide a 30 percent basis boost for rural areas, and
    - Expand tax-exempt bond recycling
- Those are just some of the provisions in the comprehensive legislation.
- Like most tax bills, the Affordable Housing Credit Improvement Act will not likely be considered by the tax-writing committees on its own.
- More likely, the bill or provisions from it will be added to tax legislative vehicles.
- I'll keep you posted on the progress of this legislation in future podcast episodes and periodically on Twitter.

Other News

- Let's turn now to some other news coming out of Washington, D.C.
- Most notably, the top Democrat in the Senate's tax-writing committee filed an amendment to an energy bill pending on the Senate floor.
    - The amendment would extend for three years the production tax credit and investment tax credit for wind, solar and other types of renewable energy.
    - In addition to the ITC and PTC extensions, the amendment would:
        - Expand the investment tax credit to include standalone energy storage,
        - Permanently extend the Section 179D deduction for energy efficient commercial and multifamily properties, and
        - Update and extend the Section 45L credit for energy efficient new homes through the year 2022.
    - Senate Finance Committee Ranking Member Ron Wyden introduced the amendment to the American Energy Innovation Act.
    - Both the bill and the amendment are still pending, but Sen. Wyden's demonstrated support for energy incentives is worth noting as lawmakers consider extenders this year.
    - We will discuss this, and other legislative language at our renewable energy conference we are holding in May in St. Louis.
    - I'll tweet out a link to register for the conference, if you are interested in joining us.
- Next, I have a few state-level updates. One from California dealing with low-income housing tax credits and bonds, and the other from Wisconsin dealing with opportunity zones.
- First, the California Tax Credit Allocation Committee, or TCAC, recommended that all developers applying for 4 percent low-income housing tax credits also apply now for tax-exempt bonds.
    - In California, the tax credits are allocated by TCAC and tax-exempt bonds are allocated by the California Debt Limit Allocation Committee, or CDLAC.
    - In the past, developers could only apply for tax-exempt bonds after a tax credit award was made.
    - However, California bonds are being allocated under a competitive system this year, with fewer application cycles.
    - That means 4 percent plus credit applicants applying in competitive rounds do not have the option to wait until after an award.
    - This is because TCAC awarded projects are required to receive a bond allocation within 90 days of receiving a tax credit reservation.
    - TCAC now recommends that all developers apply for a bond allocation by April 17 if they are applying for the June 17 tax credit award date.
    - Developers who apply for bonds by April 17 would be able to get a bond allocation July 15, which meets the 90-day issuance requirement.
    - The next bond allocation date is in October, which is beyond a 90-day window from June.
    - April 17 is a little over a month from now, so if you need help with your California bond application, please reach out to a Novogradac partner near you.
    - We have California offices in Long Beach, San Francisco, Walnut Creek and Petaluma.
- Next, I have more news from California from the legislative side.

- A bill was introduced in the California Assembly to create a state-level new markets tax credit.
- If enacted, the bill A.B. 3101 would help incent private investment in communities of need across California.
    - Under the bill, the California new markets tax credit would function in modified conformity with the federal new markets tax credit.
    - The incentive would have a statewide cap of $100 million for taxable years 2021 through 2025, subject to appropriations.
    - If you're interested in learning more about community development incentives in California or in other states, I encourage you to contact a Novogradac partner for more information.
    - I'll include a link to Novogradac's services page in today's show notes.
- Now let's move over to the state of Wisconsin, where we have some good news on enacted legislation regarding community development.
    - This enacted state bill that could help drive opportunity zones investments in Wisconsin.
    - Under this new law for state tax purposes, Wisconsin now allows double the capital gain exclusion available for federal income tax purposes for investing in opportunity zones.
    - The one catch is that the investments of capital gain must be in a Wisconsin qualified opportunity fund.
        - A Wisconsin qualified fund is one that holds at least 90 percent of assets in Wisconsin opportunity zones businesses.
    - We've been tracking this bill on the podcast since it was introduced last October, and it's great to see the incentive finally enacted.
    - To learn more about state incentives that can be layered with federal opportunity zones, I encourage you to reach out to my partner John Sciarretti.
    - You can also learn about state-level incentives during the Novogradac Opportunity Zones Conference being held in Long Beach, Calif., at the end of next month.
    - California has over 800 opportunity zones, with 19 census tracts located in the city of Long Beach.
        - The conference is April 23-24 with some pre-conference events on April 22.
        - We're going to have some great speakers there including a keynote address by Daniel Kowalski, who is the counselor to Treasury Secretary Steven Mnuchin.
        - We'll also have a keynote from Rep. Jimmy Gomez from California, who is a member of the tax-writing House Ways and Means Committee.
    - If you haven't registered yet, I recommend you register today to save your spot.
    - I'll include a registration link in today's show notes and tweet it out as well.

Related Resources

Population Figures

Internal Revenue Bulletin: 2020-10

Notes from Novogradac: Population Growth Slows, but Temporary Cap Increase Boosts Ceilings for LIHTC, PABs

Affordable Housing Credit Improvement Act

H.R. 3077

S. 1703

Wyden Amendment

S. 2657

Summary

California Tax Credit Allocation Committee Memo

Timing of CLAC and TCAC Applications

California New Markets Tax Credit Legislation

A.B. 3101

Novogradac Services

Wisconsin State OZ Investment Incentive

A.B. 532

Email John Sciarretti

Register for the Novogradac Opportunity Zones Conference

NMTC Webinar

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