Summary: April 30, 2019

In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, shares an update from last week's opportunity zones conference that Novogradac hosted in Denver. He will summarize what's next for the opportunity zones community including what the next steps *may* be for the Treasury Department. He will also share highlights and key takeaways from last week's release by HUD of the 2019 income limits and what those new limits might mean for your low-income housing tax credit property.

Summaries of each topic:

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GENERAL NEWS

Novogradac's Spring Opportunity Zone Conference

- Last week in Denver, Novogradac hosted the 2019 Spring Opportunity Zones Conference.
- As you would expect, the second tranche of proposed regulations on the opportunity zones incentive was the main topic.
  - The proposed regulations were released eight days before the conference.
- Our keynote speaker was Daniel Kowalski, counselor to the Secretary of the Treasury.
  - Kowalski spoke about the second tranche of regulations and talked about what's coming.
  - He emphasized that Treasury wants feedback from various opportunity zones stakeholders on the latest proposed regulations.
  - And he encouraged everyone involved to respond during the comment period.
  - That period will be 60 days after the regulations are published in the Federal Register.
  - Which is also a breaking news item for today as we learned this morning that the regs will be published tomorrow, Wednesday morning.
  - Now there's also public hearing on the regulations.
    - And that hearing is scheduled for July 9.
- Now in the Washington Report panel, which came after Kowalski spoke, the desire for feedback was also emphasized.
  - Now that panel included Ja'Ron Smith, the deputy assistant for the president for strategic initiatives.
  - It also featured Alfonso Costa, the deputy chief of staff at HUD, as well as Shay Hawkins, the legislative assistant for Sen. Tim Scott.
  - Sen. Scott, as you know, is the original sponsor of the Investing in Opportunities Act.
  - We also had John Lettieri, co-founder and president of the Economic Innovation Group, on that morning session.
- Now getting back to the desire for feedback on the regulations, Hawkins gave some direction to attendees on what would work best during the comment period:

  "And as we see the key elements and the key regulatory issues develop, we want to give Dan not 100 folks commenting on 50 different issues. We want Dan to be looking at 100 folks commenting on three different issues, the three key issues that we need to move forward and for this provision to flourish."

- Now Shay Hawkins didn't say what he thought those issues should be, but his point is well taken and it is part of the reason that we formed the Novogradac Opportunity Zones Working Group a couple of years ago.
  - The working group will submit comments on the regulations and will focus on the most important issues first.
  - Now I will include a link to our working group page with today's show notes and I'll tweet out a link as well, in case you're interested in joining our working group.

- Now Shay Hawkins also told attendees that some opportunity zones-related bills will soon be introduced in Congress.
    - Now one bill will include reporting requirements for opportunity zones investments.
    - Shay Hawkins said that the particular bill will contain many of the reporting requirements that were in the original legislation.
    - Those requirements were left out of the bill when the incentive was rolled into tax reform legislation at the end of 2017, but supporters do still want it.
    - Now Shay also said that a bill would be introduced by Senator Tim Scott to extend the 2019 deadline that you have to invest by to get the 5 percent, seven-year basis adjustment.
    - That deadline of 2019 would be extended to 2020, given the delay in the release of guidance from Treasury.
- Now getting back to Kowalski's talk, he said that Treasury *may* issue a third tranche of regulations this year.
    - Now what was surprising was he did stress that Treasury only *may* issue additional guidance, or a third tranche, or which that means or implies, it may not.
- Now this is different than what many attendees thought, but it is something we have been hearing from Treasury since the release of the second tranche of regulations.
- Before then, it had been presumed that there would be a third tranche of regulations later this year.
- However, I will note that two speakers on one of the afternoon sessions provided possible context.
    - Tom Morton of Pillsbury Winthrop Shaw Pittman, as well as Michael Sanders of Blank Rome, each said they do expect that Treasury will release anti-abuse rules.
    - And they speculated that Kowalski wasn't including those as regulations, per se.
    - Both still fully expect anti-abuse rules to be released by Treasury.
        - As do I.
- Well, we'll see what happens and will let you know of any further developments in future podcasts.
- In the meantime, the prospect that Treasury will not issue a third tranche of guidance is one of the many points that I discuss in Part II of my two-part Notes from Novogradac blog post about the second tranche of regulations.
    - I encourage you to read that post at www.novoco.com/blog.
- Now one other bit of news that came out of our Washington Report session is that Ja'Ron Smith said that the federal government will soon release two tools to help encourage opportunity zones investments in rural areas.
    - He did note that 42 percent of opportunity zones are in rural communities.
    - Smith said that the government will soon have a website and a tool kit to help encourage investments in those areas.
- I do want to thank everyone who came to the conference.
    - There were over 600 in attendance.
- And to remind you that we do have a fall opportunity zones conference scheduled for Chicago in October, as well as a webinar on the second tranche of guidance scheduled for May 14.
    - I'll tweet out links to both of those.
- I encourage you to register for Chicago early, as well as for our webcast on May 14.

- Now links to both the conference and the webinar will also be provided in today's show notes.

2019 Income Limits

- Now, let's turn to another major news item from last week: HUD last Wednesday released the income limits for fiscal year 2019.
- These income limits went into effect the same day, Wednesday, April 24.
- The income limits are used to set tenant incomes and rent limits for numerous assisted housing programs.
- Now, here's what we know so far about the fiscal year 2019 income limits:
- Overall, national income numbers are on the rise.
- The national median household income for fiscal year 2019 is $75,000.
- That $75,000 amount represents a 5 percent increase over the prior year.
    - By comparison, last year the increase was 5.7 percent.
    - The year before that, the increase was 3.5 percent.
- Now Income and rent limits are specific to an area, obviously, so we at Novogradac will be publishing insights from this data at a more granular level in the coming days and weeks.
- But for now, to get started, today let's look at the information by county.
- You may not know this, but there are more than 4,700 counties or county equivalents in the United States and its possessions, Puerto Rico and the like.
    - About 7 percent of those counties are going to see increases in income limits of greater than 9 percent.
    - More than – say that again – about 7 percent of these counties are going to see increases in income limits of greater than 9 percent.
    - Furthermore, more than a third of these areas are going to see income limit increases of at least 5 percent.
- Now for underwriting models, many people trend rent growth at 2 percent, but it's worth noting that more three quarters, more than 75 percent, of these areas will have an increase in income and rent limits of greater than 2 percent.
- Now on the other end of the spectrum, just over 10 percent of counties are going to see income limits decrease.
    - That is, before accounting for the hold harmless policy for existing developments.
- So in short, the HUD income limits release means that, on average, notable potential increases in qualifying tenant income levels and rental income from tax credit properties will be realized.
- Now there is one item I want to note or emphasize–there's a cap on the annual increases in income limits, and that cap is 10 percent for 2019.
- Which means, that if statistically the increase would have been more than 10 percent, the increase in income, the cap in those incomes is 10 percent.
- Now you may be wondering, there is about 5.5 percent of all areas that had income increases in excess of this cap–some well in excess of this cap.
- So this means that those areas will have built-in demand or built-in likelihood for increases in future years.

- Now looking at rural properties, it's important to note that a rural property with 9 percent low-income housing tax credits (LIHTCs) can use the greater of the national non-metro median income number or the income limits that would otherwise apply.
- So, if you own or manage one of these properties, you need to know what happened with the national non-metro median income amount for fiscal year 2019.
- Well the non-metro median income for 2019 is $60,600–that's an increase of more than 3.7 percent from the previous year.
  - But I will note that this 3.7 percent increase is a lower growth rate than the 5.5 percent increase that was realized in 2018.
- Now these higher income limits will allow a greater percentage of the population to qualify for Section 8 assistance and LIHTC apartments.
- Now, one thing that is different this year is the new average income option that was enacted under the Consolidated Appropriations Act of 2018.
  - Under prior law, households moving into LIHTC properties could qualify only if their income did not exceed 60 percent of area median income – and less than maybe 50 percent income, in which case the number was even lower.
  - Now the new average income rule allows an option – now this was enacted as part of the spending bill in 2018 – this option allows certain units in a LIHTC property be available to residents earning up to 80 percent of the area median income, yet still qualify for tax credits.
- How does this work?
  - Well, the development-wide average still has to be at 60 percent or less.
  - Now similar to last year, HUD has not published income limits for the income tranches that are allowed under the average income test, but we are hopeful that HUD will publish this information in the future.
  - Now while HUD hasn't specifically addressed the average income option in its income limits announcement, you can read more about income limits and income averaging implications on our Notes from Novogradac blog.
- But, before we wrap up, I wanted to share a few useful resources with you about these income limits.
- First, we offer a free Rent & Income Limit Calculator.
  - It's on the Novogradac website.
  - And it can be used to calculate rent and income limits for every county and for every metropolitan statistical area in the United States.
  - Now, it's not updated yet, but we are working hard on updating the calculator with the fiscal year 2019 income limits.
  - And, the updated calculator is going to be available soon.
    - Our goal is to have it done within the next week.
- In the meantime, you should make sure that you're subscribed to Novogradac's free Industry Alert email service so you can get an email notifying you as soon as the Rent & Income Limit Calculator is updated.
- We also offer for purchase a Novogradac Rent and Income Limit Estimator.
  - This estimator would help you understand how income and rent limits can change over the next one to two years.
- I encourage you to contact one of my partners at a Novogradac office near you if you have any questions about this year's income limits and how it applies to your properties.
- I've included links to the income limits, relevant blog posts, and the Rent & Income Limit Calculator and the industry alert email subscription page in today's show notes.

OTHER NEWS

- Before closing this week, I did want to discuss some other news.
- We have developments to share regarding several pieces of state legislation.
- First, Nebraska is now going to give priority to opportunity zones in receiving funds from the state Affordable Housing Trust Fund, as well as other programs.
        - Gov. Pete Ricketts signed legislation making that change.
        - He signed the legislation last week.
    - The bill added opportunity zones to state enterprise zones in being eligible for a series of state programs.
- In other state news, a bill to create an opportunity zones tax credit in Washington is on Gov. Jay Inslee's desk.
    - This credit could be claimed against the state business tax or insurance premium tax.
    - The credit is for investments in opportunity zones or in rural areas.
- Meanwhile, a similar bill in Texas to create a tax credit for investments in rural areas and opportunity zones passed the House and is now in the Senate.
    - The Texas credit would be for 25 percent and would be taken against the state insurance tax.
- And finally, a bill in Nevada to create a state historic tax credit (HTC) was introduced in the state House of Representatives.
    - The credit would be 20 percent, jumping to 25 percent for properties in certain state or federal programs and 30 percent for affordable housing.

RELATED RESOURCES

Washington OZ Tax Credit Bill

Washington H.B. 1324, creating OZ, rural incentive

Nevada HTC Bill

Nevada A.B. 178, creating state HTC

Texas Rural and OZ Tax Credit Bill

Texas H.B. 100, creating OZ, rural tax credit

Nebraska Affordable Housing OZ Bill

Nebraska L.B. 87 giving OZs priority in state funds

Novogradac Resources

Novogradac Opportunity Zones Working Group

Novogradac 2019 Opportunity Zones Fall Conference

Novogradac 2019 Investing in Puerto Rico Conference

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