



In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, starts off with House passage of a disaster relief bill that includes \$2.2 billion in community development block grant-disaster recovery funding. He also has news about an opportunity zones reporting bill and legislation to replace current renewable energy tax credits with new technology-neutral credits. He also talks about a hot topic that affects housing finance agencies, low-income housing tax credit property owners, and likely, the tenants of those properties. He also has brief news from HUD on eligibility for housing assistance and guidance on calculating the over-income limit for public housing. Then, he touches on opportunity zones news related to a Freddie Mac report and to Federal Housing Administration affordable housing incentives. After that, he will have some updates from various states relating to state low-income housing tax credits, historic tax credits and linking state incentives with federal opportunity zones.

**Summaries of each topic:**

1. General News (02:23-10:03) Pages 2 – 4
  - a. Disaster Relief Bill (02:23-04:06)
  - b. Opportunity Zones Reporting Legislation (04:07-05:48)
  - c. Clean Energy for America Act (05:49-06:55)
  - d. LIHTC Compliance Monitoring (06:56-10:03)
2. Other News (10:04-13:35) Pages 5 – 6
3. Related Resources Pages 7 – 8

Editorial material in this transcript is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding tax credits or any other material covered in this transcript can only be obtained from your tax adviser.

© Novogradac & Company LLP, 2019. All rights reserved. Reproduction of this publication in whole or in part in any form without written permission from the publisher is prohibited by law. For reprint information, please send an email to [cpas@novoco.com](mailto:cpas@novoco.com).



## **GENERAL NEWS**

### **Disaster Relief Bill**

- Many of our listeners were in Puerto Rico last week for the Novogradac Investing in Puerto Rico Conference.
- The event highlighted various resources and strategies that could help drive investment into rebuilding Puerto Rico and the U.S. Virgin Islands after Hurricane Maria.
- Disaster recovery and relief have also been hot topics in Washington, where lawmakers have discussed how to provide assistance to communities affected by natural disasters.
- On Friday, the House passed a \$19.1 billion disaster-relief package that includes assistance for areas, including Puerto Rico, affected by hurricanes, tornadoes, floods and wildfires since 2017.
  - The bill includes more than \$2.2 billion for community development block grant-disaster recovery.
  - Now that's twice as much as the amount in the disaster aid bill that the House passed in January for 2018 and 2019 federally declared disaster areas.
  - That included the recent tornadoes in the Southeast and floods in the Midwest.
- The Democrat-led bill passed with a vote of 257-150, including 34 Republicans.
- Now despite this first step, there's still a long way to go before any disaster relief legislation is enacted.
- There's not enough support for the bill in the Republican-controlled Senate at the moment.
- Senate appropriators are still negotiating a compromise.
- Now furthermore, the president opposes the House bill, saying that Puerto Rico has already received ample disaster relief funding.
- I'll keep you posted on the status of disaster recovery legislation and any potential policy riders that could be added on later
- Please see a link to the disaster supplemental bill, H.R. 2157, in today's show notes.

### **Opportunity Zones Reporting Legislation**

- Turning now to opportunity zones, a bipartisan group of senators last week introduced opportunity zones reporting legislation.
- The senators who introduced the reporting bill were sponsors of the original Investing in Opportunity Act.
- They are:
  - Democrats Cory Booker of New Jersey and Maggie Hassan of New Hampshire.
  - As well as Republicans Tim Scott of South Carolina and Todd Young of Indiana.
- Ways and Means Democrat Ron Kind of Wisconsin and Republican Mike Kelly of Pennsylvania also introduced a House companion legislation, or a House companion bill, a day later.
- The reporting bill would require Treasury to collect and report to Congress information on opportunity zones investments annually.
- The information to be collected includes:
  - the number of qualified opportunity funds created,
  - the amount of assets,



- the composition of the funds by asset class,
- the percentage of opportunity zones that have received qualified opportunity fund investments,
- and the outcomes for key economic indicators.
- Supporters of the bill say that reporting requirements would provide oversight or help with oversight, and help accurately measure the success of the opportunity zones incentive.
- Now in fact, the original Investing in Opportunity Act included reporting requirements for opportunity zones.
  - But, the reporting requirements were removed as a technical matter as part of the tax bill that Congress passed in 2017.
- Please see links to the bills and the accompanying press releases in today's show notes.
  - I'll also send out a tweet with the links.
- And you can read more about ideas to monitor the impact of the opportunity zones incentive on opportunity zones May issue of the Novogradac Journal of Tax Credits.

### **Clean Energy for America Act**

- In renewable energy news, Senate Finance Committee Ranking Member Ron Wyden of Oregon, along with 24 Democratic co-sponsors introduced a bill to incentivize clean energy.
- The bill, the Clean Energy for America Act would consolidate 44 current energy incentives into three tax credits: a clean energy production tax credit (PTC), an investment tax credit (ITC) and a clean fuel tax credit.
- The PTC would be for up to 2.4 cents per kilowatt-hour for clean facilities.
- The ITC would be 30 percent for facilities with zero carbon emissions.
- The technology-neutral incentives would phase out when greenhouse gas emissions are reduced by 50 percent.
- This is, by the way, the second straight session of Congress in which the bill was introduced.
- Unfortunately, the bill doesn't have a single Republican co-sponsor, which means the legislation is more a messaging bill for Democrats.
- I will include more information on the bill in today's show notes and tweet out the link.

### **LIHTC Compliance Monitoring**

- Now let's move on now from legislation to regulations.
- The National Council of State Housing Agencies (NCSHA) last week asked the IRS to rescind its final amended compliance regulations for LIHTC properties.
- NCSHA says that the final regulations place an undue regulatory burden on housing finance agencies.
- You may recall from an earlier podcast that the IRS published final regulations for compliance monitoring of LIHTC properties.
- Under those final regulations, the minimum number of units that housing finance agencies need to inspect at a low-income property is determined by a minimum unit sample size reference chart.



- Previously, temporary regulations gave housing finance agencies the option to inspect the lesser of 20 percent of the number of low-income units or the minimum sample size in the reference chart.
- Basically, the final regulations remove that 20 percent sample size option.
- For some housing finance agencies, this means that the minimum number of units they'll have to inspect each year will more than double.
  - Now that's according to Novogradac Journal of Tax Credits article that will appear in the June issue of the periodical.
- Now in the article, many housing finance agencies reported that the new regulations would increase their inspection workload and costs significantly.
- States with many small, geographically dispersed LIHTC properties could feel the greatest impact.
- For example, Wyoming's compliance department has just one person, who will more than double the number of units she inspects this summer, from 334 units to 721.
- Now NCSHA heard similar feedback from other housing finance agencies, prompting the council to request the IRS to rescind the final regulations.
- The NCSHA letter said that the new mandate would require states to raise compliance monitoring fees.
  - In turn, this raised fee would place a hardship on property owners who weren't expecting an increase in operating costs.
  - And, furthermore, those costs may be passed on to tenants if the rents being charged are below the maximum allowable rents.
- As such, NCSHA asked the IRS to work with states to develop a risk-based process for determining an appropriate sample size of units, rather than a random sample minimum.
- The new regulations also reduce the advanced notice agencies must give to property owners before a physical inspection or low-income certification review.
  - The advanced notice period was cut in half, from 30 days to 15 days.
- NCSHA recommended a return to the 30-day standard because a 15-day notice is often insufficient for owners and agencies to prepare for the inspections and reviews adequately.
- Now if you have any questions about compliance monitoring for your property, please contact my partner Thomas Stagg.
- I'll include his email in today's show notes.



## Other News

- In other news, HUD published a proposed rule last week to evict undocumented individuals from public housing and other HUD-assisted housing programs.
  - The proposed rule would require all residents to prove eligibility for assistance.
  - That would include any resident of the housing.
  - Now under current guidance, HUD had permitted undocumented individuals in households containing eligible documented individuals as long as the eligible financial assistance was reduced on a pro-rata basis.
  - This proposed rule would repeal that guidance.
  - I will note, HUD is accepting comments on the proposed rule through July 9.
- HUD also released supplemental information on how to calculate the over-income limit for public housing.
  - The notice provided guidance to public housing agencies on how to implement the income limit.
  - For assistance on calculating these over-income limits, please contact a Novogradac partner near you.
- Next, a Freddie Mac report found that their business in opportunity zones grew more than 75 percent faster than their growth in business in other areas.
  - The Freddie Mac report emphasized that multifamily rental property will be a key component for qualified opportunity funds and said that Freddie Mac will likely target opportunity zones for its affordable housing assistance.
  - There's a link to the report in today's show notes, and I'll also tweet it out.
- And in a related item, the Federal Housing Administration last week announced incentives for multifamily affordable housing property owners to build in opportunity zones.
- The FHA announced it will reduce fees for housing that meets certain standards and will create a team to speed up the processing of applications.
- Now, let's turn to some state news.
  - Some good news, and some not-so-good news.
- Starting with some good news, California Gov. Gavin Newsom released his updated budget request that included at least two tax-incentive-related items.
- First, Newsom proposes a total increase of \$500 million for the state low-income housing tax credit (LIHTC) incentive, \$200 million of which would be focused on mixed-income properties.
  - Newsom also proposes eliminating the 2020 sunset date for certification for the state tax credits.
- His budget request also proposes partial state conformity to the federal tax code for the opportunity zones incentive.
  - Under Newsom's proposal, opportunity zones investments in affordable housing and green technology would be eligible to receive state benefits parallel to the federal benefits.
- Now the California Legislature has until June 15 to pass the budget.
- Turning to Maine, a bill was introduced to create a state LIHTC.
  - The Maine state credit would focus on adaptive reuse to create workforce housing, rural housing and senior housing.
  - It's the second bill in Maine introduced this session to create a state LIHTC.



- The other bill, which would create a 4 percent credit with a \$42 million annual cap.
  - That bill has a hearing today before the Joint Taxation Committee.
- Next, in Hawaii, a bill to create a 30 percent state historic tax credit (HTC) is now on Gov. David Ige's desk.
  - The credit would have an annual \$1 million statewide cap.
- And finally, in Florida, a bill that would have revived the state's Enterprise Zones Act and made opportunity zones eligible for a variety of state incentives died in committee.



## **RELATED RESOURCES**

### **Supplemental Appropriations Act 2019**

[Supplemental Appropriations Act 2019 \(H.R. 2157\)](#)  
[House Appropriations Committee Press Release](#)

### **Opportunity Zones Reporting Bill**

[S. 1344, to require the Secretary of the Treasury to collect data and issue a report on the opportunity zone tax incentives enacted by the 2017 tax reform legislation, and for other purposes.](#)

[H.R. 2593](#)

[Sen. Cory Booker OZ Reporting Bill Press Release](#)

[Rep. Ron Kind OZ Reporting Bill Press Release \(Includes Link to Bill\)](#)

### **Clean Energy for America Act**

[Clean Energy for America Act](#)  
[Overview](#)  
[Section-by-Section Summary](#)

### **LIHTC Compliance Monitoring Regulations**

[NCSHA Letter to IRS](#)  
[Amendments to the Low-Income Housing Credit Compliance-Monitoring Regulations](#)  
[Subscription link to Novogradac Journal of Tax Credits](#)

### **HUD Proposed Rule for Housing Assistance**

[HUD proposed rule on immigration eligibility for housing assistance](#)

### **HUD Over-Income Public Housing Notice**

[HUD Notice with Supplemental Information on Over-Income Public Housing](#)

### **Freddie Mac Report**

[Freddie Mac report on Opportunity Zones](#)

### **FHA Incentives for OZ Affordable Housing**

[Incentives for FHA Mortgage Insurance for Properties Located in Opportunity Zones](#)

### **California Budget Request**

[Revised 2019-2020 Budget Request](#)

### **Maine LIHTC Bill**

[Maine L.D. 1645 to create state low-income housing tax credit](#)

### **Hawaii HTC Bill**

[Hawaii S.B. 1394 to create state historic tax credit](#)



**2019 Forbes Opportunity Zones Summit: Investing for Impact**  
[Conference Information Page](#)

**Novogradac 2019 Financing Renewable Energy Tax Credits Conference**  
[Register](#)