Summary: May 28, 2019

In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, covers the 15th round of new markets tax credit allocation awards and provide highlights of the recent renewable energy tax credit conference in San Francisco. He then shares updates on disaster relief legislation, proposed spending legislation for HUD and the status of the Senate Finance Committee's task forces on temporary tax provisions. He closes with state news from West Virginia, Alabama, North Carolina and South Carolina.

Summaries of each topic:

GENERAL NEWS

NMTC Allocations

- The headline news last week was the long-awaited announcement of the new markets tax credit (NMTC) allocation awards under the calendar year 2018 round of the incentive.
- 73 community development entities were awarded $3.5 billion in equity issuance authority.
- As always, the NMTC is heavily oversubscribed.
- There's significantly more demand than is available for the allocation of equity issuance authority.
- The 73 awardees were chosen from a pool of 214 applicants.
- And those applicants were seeking $14.8 billion in allocation authority.
  - That means only 34 percent of applicants received an award and less than 24 percent of the amount requested was available for allocation.
- Now the awardees are headquartered in 35 states, Puerto Rico and the District of Columbia.
- All 73 awardees do intend to provide at least 95 percent of their qualified equity investment dollars into low-income communities.
  - In real dollars, that's at least $450 million more than the minimum program requirements.
- In other words, the NMTC helps drive investment into the low-income communities most in need.
- The CDFI Fund reports that every $1 of NMTC helps drive more than $8 in private investment.
- The NMTC incentive is currently, though, set to expire.
  - That's at the end of the calendar year 2019 round.
  - Technically, there's no more allocation available after the end of calendar year 2019.
- Now fortunately, there is bipartisan legislation in both chambers of Congress to make the NMTC permanent.
- And two of the lead Senate cosponsors of the New Markets Tax Credit Extension Act will be speaking next week at the Novogradac 2019 New Markets Tax Credit Spring Conference.
- They are Sens. Roy Blunt of Missouri and Rob Portman of Ohio.
- We're very much looking forward to hearing from Sens. Blunt and Portman, as well as from our other distinguished speakers.
- Now if you participate in the NMTC or are interested in learning more about the incentive, I invite you to join us at the event.
- The conference will be held in Washington, D.C., June 6-7.
  - There will also be pre-conference workshops on June 5.
- I'll include a conference registration link in today's show notes.
- Also, I invite you to reach out to one of my partners at a Novogradac office near you for assistance or any questions you have about the NMTC.
- We can help with transaction structuring, financial projections, compliance reporting or preparing a NMTC allocation application.

- Today I will include a link in today's show notes to Novogradac's NMTC services brochure.
- There you'll find a list of our services, as well as contact information for some of Novogradac's leading partners on NMTC matters.

Novogradac RETC Conference

- Now speaking of events, last week was the Novogradac 2019 Financing Renewable Energy Tax Credits Spring Conference in San Francisco.
- I was happy to see many of you there.
- Our panelists discussed everything from solar industry trends to pairing renewable energy tax credits (RETCs) with the opportunity zones incentive and much more.
- I'd like to mention a few highlights from the conference.
- In our Washington Report and Industry Update panel, I was joined by Keith Martin of Norton Rose Fulbright.
- Keith said that renewable energy tax equity feels like it's in good supply.
- He referred to the renewable energy tax equity market as, and I quote, "hot," end quote.
- And he said that the industry has had a busy March and April closing deals.
- Keith then provided details on yields in various renewable energy markets.
- He said that tax equity remains in good supply with flip yields in the mid-6 percent range for contracted utility-scale solar and onshore wind.
    - Yields for merchant projects and offshore wind are in the 7 to 7.5 percent range, and
    - There are 8 percent yields for rooftop solar.
- Keith wrapped up his discussion talking about how renewable energy matches up with the opportunity zones incentive, saying that it's hard to apply the opportunity zones rules to renewables.
- He said these two fields don't fit together quite yet.
- On our Solar Industry Trends panel, Dick Rai of Dick Rai Consulting was very optimistic about the future of the renewable energy industry.
- Dick said, quote, "I think the ITC will come back. I think it's here to stay," end quote.
- Now David McIlhenny of SunPower Corporation did say that there's enough tax equity to serve the market, confirming what Keith Martin had said earlier.
    - Now one change that McIlhenny has seen recently is that there is a lot of cash equity interest, both from U.S. investors and international investors.
- Now David Riester of Cypress Creek Renewables said there is little to complain about in terms of the availability of cash equity, debt and tax equity.
    - Riester said,and I quote it's a good time to put capital stacks together.
- On the hot topics panel, my partner Stephen Tracy said that everyone is trying to lock in the 30 percent ITC, which is not a surprise.
- Panelists expect there will be a rush to incur costs by the end of the year.
- Becca Glazer of Sol Systems LLC is already seeing a rush to secure equipment and also anticipates another rush at the end of the year.
- Glazer then said that tax equity funds for 2020 projects are closing now.
    - In the past, Glazer noted, this happened later in the year.
    - Glazer also said that everyone is rushing to have their ducks in a row.

- On the topic of the opportunity zones incentive, some speakers agreed with what Keith had said about renewables and the opportunity zones incentive.
- Glazer said that the fit between renewables and the opportunity zones incentive isn't great from a tax equity perspective.
    - She elaborated by saying that tax equity investors only want to stay in for five to five-and-a-half years.
    - Jerry Breed of Miles Stockbridge LLP noted that there's not a long enough hold to get the benefits of the opportunity zones incentive in traditional structure.
- Breed then said that there are many structural challenges that make it unlikely that renewables will be a big player in the opportunity zones market.
- However, Scott Cockerham of Kirkland & Ellis LLP is optimistic that the opportunity zones incentive can play a role in renewable energy investment.
- He said his firm is helping a client form a renewable energy opportunity zones fund.
- Now as an aside, in the coming weeks, the Novogradac Opportunity Zones Working Group will be holding a subgroup call on combining the Opportunity Zones incentive with renewable energy tax incentives.
    - For information about our working group, please contact Karen Destorel.
- Now let me close this section of the podcast by saying thank you to everyone who attended the conference, as well as thank our speakers, co-hosts and sponsors.

THUD Spending Bill

- Moving on to legislative matters, Congress is on recess for Memorial Day until June 3.
- But I do want to share some brief updates on legislative efforts we've been monitoring.
- First, a HUD spending update.
- The House Appropriations Committee's subcommittee on Transportation-Housing and Urban Development approved a fiscal year 2020 spending bill last Thursday.
- The nearly $76 billion spending bill includes a $3.7 billion, or 6.9 percent, increase for HUD funding.
    - This compared to fiscal year 2019.
- The full House Appropriations Committee is expected to consider the bill next week.
- Now there is one key obstacle to the legislation being enacted.
- That is, it can't be enacted unless Congress passes a new budget and spending cap deal for FY 2020.
- Without such a deal, non-defense spending would need to be cut by $55 billion from 2019 levels, this to comply with the Budget Control Act spending caps.
    - Now the bill approved Thursday was not written to conform to the statutory spending caps, but rather the bill assumes that Congress will eventually pass a budget deal to *increase* nondefense spending caps.
    - Now falling under the category of non-defense spending, HUD would be included in the spending cuts.
    - If the spending cuts do come forward and do occur, there would be a reduction of probably about 10 percent in the HUD budget.
- Now my colleague Peter Lawrence did write a Notes from Novogradac blog post on the proposed HUD funding.
    - You can find it on our website.
- Also, I'll include a link to the blog post in this week's show notes and send out a tweet.

Disaster Assistance

- Next, an update on disaster relief.
- Legislation to authorize $19.1 billion in federal assistance to areas hurt by natural disasters last year has hit a speedbump.
  - The bill includes $2.2 billion in community development block grant–disaster recovery funds.
- Supporters of the bill had hoped to advance the legislation from the House of Representatives and get the bill to the president's desk before the Memorial Day recess.
- The plan was to pass the bill quickly through unanimous consent.
- However, Republican Rep. Chip Roy of Texas requested a recorded vote on Friday.
- That means all members of the House need to be physically present to vote.
- But many House members had left D.C. already for the weeklong recess.
- So the House vote is scheduled to have to wait until after Congress comes back from recess on June 3, but there is a possibility it could occur this week.

Update on Tax Extenders Task Forces

- Next, Senate Finance Committee Chairman Chuck Grassley penned an opinion piece on tax extenders that was posted in Tax Notes last Friday.
- Now I mentioned in last week's podcast how Chairman Grassley and Senate Finance Committee Ranking Member Ron Wyden created bipartisan task forces to explore tax extenders policy.
  - One group in particular, the employment and community development task force, will look at options to extend or make permanent the NMTC.
  - That taskforce is led by Republican Senator Rob Portman of Ohio and Democratic Senator Maria Cantwell of Washington.
  - Portman as I mentioned earlier will be speaking at our NMTC conference in Washington, D.C., next week.
- Now Chairman Grassley's opinion piece included an update on the progress of the task forces.
- He said that each taskforce has already begun its work, which will be finished by the end of June.
- Grassley did say that once the task forces are done examining temporary tax provisions, they can move forward with fixing the problem of short-term tax extensions.
- He didn't mention any specific time frame for that step.
- I will keep you posted in future podcast episodes as more information becomes available.

Other News

- Now, let's move to state news.
- In West Virginia, legislation was re-introduced to create a state-level incentive to pair with the opportunity zones federal incentive.
  - The bill would allow income directly from a qualified opportunity zone business to be exempted from state income tax.
  - Does this sound familiar?
  - Well it is.
  - Similar legislation was vetoed by Gov. Jim Justice earlier this year for technical considerations.
  - The new bill is an effort to address those issues during the current special session of the state Legislature.
  - As you'd expect, I will keep you updated in future podcasts.
- West Virginia isn't the only state making an effort to incentivize investment in opportunity zones.
- In Alabama, legislation to create a state capital gains tax reduction for some qualified opportunity funds passed the House and is being considered by the Senate.
  - The legislation would apply to opportunity funds whose investments are primarily in Alabama.
  - Primarily, in this case, means 75 percent.
  - There's also a provision to allow the state to offer impact investment tax credits (ITCs) for opportunity zones investments that fail to produce expected returns.
- Meanwhile, the North Carolina Senate and House both passed funding bills that would extend the state historic tax credit (HTC) until the year 2024.
  - The two chambers now need to reach a budget deal.
  - There is good news on that front: The state House and Senate agree that the state credit's sunset date should move from the beginning of 2020 until the beginning of 2024.
- And in South Carolina, changes went into effect last week for the state HTC program's definition of rehabilitation expenditures for textile mills.
  - The change now limits the ability of a taxpayer to claim the credit if they more than double the square footage of a property contiguous to the textile mill during the rehabilitation.
  - Previously, that limit applied to the actual textile mill.
  - Now there's no limit on HTCs you can claim on the rehabilitation of the actual qualified textile mill site.

RELATED RESOURCES

Novogradac Journal of Tax Credits

Subscription

NMTC Allocation Awards

Novogradac 2019 New Markets Tax Credit Spring Conference Registration
Novogradac NMTC Services Brochure

THUD Spending Bill

FY 2020 Spending Bill
Despite Decline in FHA Receipts, House Appropriations THUD Subcommittee Proposes Robust FY 2020 HUD Funding, Notes from Novogradac

West Virginia OZ Bill

H.B. 113

Alabama OZ Bill

H.B. 540

North Carolina State HTC Bill

S.B. 622

South Carolina State HTC Bill

S. 440

Novogradac Introduction to Opportunity Zones

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