



In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, discusses a revised low-income housing tax credit Form 8609 that reflects the new income averaging minimum set aside, as well as how a change in Missouri's state leadership can affect the state's low-income housing tax credit and historic tax credit. He also talks about changes to the Community Reinvestment Act suggested by a group of Democratic senators. Then, he briefly touches on the status of a HUD appropriations bill for 2019. After that, he shares some other affordable housing, community development and historic preservation headlines from the past week.

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GENERAL NEWS

New Form 8609

- I have big news for our listeners who work with the low-income housing tax credit (LIHTC).
- Or at least those that are looking to rent some units at income levels about 60 percent.
- The IRS has posted a revised Form 8609 on its website.
- Form 8609 is used to document to the IRS the amount of credits allocated to a project and to make certain required elections, most notably for the purposes of this blurb, including the minimum set-aside election.
- The updated Form 8609 now features an option to choose “average income” as the minimum set-aside election, as created under the 2018 omnibus spending bill.
- Now previously, household incomes in LIHTC properties could not exceed 60 percent area median income at move-in.
- Income averaging allows some apartment units to have income levels as high as 80 percent of AMI, while other apartments are at lower levels—as long as the property-wide average equals no more than 60 percent of the AMI.
- Now we’ve described income averaging at length in previous podcasts and we have in-depth analysis of the provision on our blog and in this month’s Novogradac Journal of Tax Credits, so I’m not going to dive into much more detail here on how the provision actually operates.
- But in essence, income averaging allows a LIHTC property to serve a wider range of household incomes.
- Now remember, income averaging is only available to properties that have not yet made a minimum set-aside election on Form 8609.
- At the time of this recording I’ll note, the instructions for filling out the revised Form 8609 have not yet been updated, at least not updated on the IRS website.
- Neither has the IRS updated Form 8823 for reporting noncompliance or building disposition to reflect the income averaging option.
- Now if you questions about income averaging or completing your Form 8609, please contact a Novogradac partner near you.
- I’d also encourage you to reach out to Thomas Stagg in our Seattle, Wash., office, or I should say Bellevue, as he’s worked quite extensively in understanding the intricacies of the income averaging provision.
- Now I’ll share a link to the revised Form 8609 and our income averaging blog post in today’s show notes and I’ll send out a tweet.

New Missouri Governor

- Next, I have information from the state of Missouri.
- Eric Greitens resigned as the governor of Missouri last Friday.
- Now Greitens, as you may have recalled from prior podcasts had been critical of the Missouri state tax credit programs – the state tax credit programs, not the federal tax credit programs – especially the state historic tax credit (HTC) and state LIHTC in Missouri.
- Last Friday before leaving office, Greitens signed a bill into law that reduces the state HTC program cap from \$140 million to \$90 million, plus \$30 million for projects in qualified census tracts.



- Now regarding the state LIHTC: Greitens was a member of the Missouri Housing Development Commission and he appointed four commission members last year who likewise opposed the state LIHTC.
- Now in December, you may also recall, he led a commission vote to put a freeze on the state housing tax credit program.
 - Now interesting to note, the governor appointed two of the members just hours before that LIHTC vote.
- Now the commission then voted 8-2 not to authorize state funds to match the federal LIHTC program.
- Now who were the only two commission members who opposed zeroing out the state program?
 - Who were the two no votes in the 8-2 vote?
- One was State Treasurer Eric Schmitt.
- The other is the man replacing Greitens as governor of Missouri, then-Lieutenant Gov. Mike Parson.
- Now Parson will serve out the rest of Greitens' gubernatorial term, which ends January 2021.
- Now Parson at the time of the housing commission vote said that eliminating the state LIHTC would hurt the poor, elderly and disabled.
- Needless to say, affordable housing advocates in Missouri are relieved to have a supporter of the state LIHTC in office.
 - And I even expand it to say affordable housing advocates nationwide.
- So where does this leave Missouri's state LIHTC?
- I would say it's very likely that next year's qualified allocation plan *will* include the credit.
- The statute authorizing the credit was never amended or repealed.
- The Missouri Housing Development Commission in December 2017 simply voted to not authorize an allocation for that year.
 - That was the 8-2 vote.
- I should also note, none of the housing commission members appointed by Greitens, those no votes, remain on the commission.
 - That's because the Missouri Senate refused to confirm them.
- So theoretically, Parson, the new governor, could appoint new commission members who support reauthorizing allocation for the state LIHTC.
- However, Missouri House Budget Committee Chairman Scott Fitzpatrick, he has said that the commission will have to make a case for the credit before the House Budget Committee, in order for that committee, to authorize issuance of the credit.
- Now the Budget Committee chairman did say his committee might not restart the program unless certain changes are made, such as reducing the amount of credits issued each year.
- So there's a lot to still come from these new developments in Missouri.
- And if you have any questions on how these potential changes could affect your developments and investments, or want other insights as to what the lay of the land is with respect to Missouri state tax credits, both historic and low-income housing, I'd encourage you to reach out to my partner Mike Kressig.
 - He's in our St. Louis office.



CRA Letter

- Let's turn now to banking regulation.
- Last week, 16 Democratic senators sent a letter to the three federal banking agencies urging them to make changes to the regulation, or implementation, of the Community Reinvestment Act, or CRA.
- In the letter, the Senators said that CRA has made positive contributions to low- and moderate-income communities over the years.
 - However, updates are long overdue.
- The federal banking agencies are expected, as you may know from prior podcasts, they're expected in the near future to publish an advanced notice of proposed rulemaking that could result in major CRA changes.
- Hence, we're seeing various groups and agencies submit their input on what those changes should be.
- Now in their letter last week, the senators agreed with some of the recommendations that Treasury issued in April such as updating CRA to allow credit for investments outside of traditional assessment areas.
- Now the senators also called for other ways the banking agencies can strengthen the CRA, can broaden CRA's applicability and ways to increase opportunities for minorities.
- Now you can find the letter on the Novogradac CRA Resource Center website.
- I'll also tweet out a link to that page.

THUD Markup

- Now, I'd like to share a brief overview of the 2019 Transportation-HUD spending bill that was approved by the House Appropriations Committee on May 23.
- In general, the bill maintains HUD spending levels close to the 2018 levels, which, by the way, were a 10 percent increase from 2017 levels.
- Rep. Wendy Wasserman Schultz offered an amendment to increase funding for the section 202 housing for the elderly program, an increase of \$46 million, which would bring the total funding for the program to \$678 million.
 - That would be equal to the 2018 level.
- Now I'm not going to list the amounts here of the various programs and the recommended spending.
- However, you can find a detailed breakdown of the funding on the Notes from Novogradac blog.
- Now, what are the next steps?
- Well, I expect the full House to consider the 2019 THUD bill before the August recess.
 - Just a couple months away.
- Meanwhile, on the Senate side, the Senate Appropriations Committee's THUD Subcommittee scheduled a markup of its 2019 THUD bill for today.
- And the full Senate Appropriations Committee is scheduled to consider the markup on Thursday.



OTHER NEWS

- In other news, California now has a single application for 4 percent LIHTC awards.
 - A combination of LIHTC and tax-exempt bond awards.
 - Previously, the state's Debt Limit Allocation Committee, the committee that allocates bonds, and Tax Credit Allocation Committee, allocates the LIHTC, each had its own application, even though applicants have to get both the tax credit and the tax-exempt bonds for a 4 percent transaction.
 - This new application is available on the state treasurer's website.
- And in other state-level news, the Colorado state HTC was extended 10 years and had some changes thanks to a law that went into effect last week.
 - The Colorado credit was extended through the end of 2029 from 2019 to 2029.
 - And there were other changes, the most notable being the annual \$10 million cap now has to be split evenly between large and small projects.
 - In this case, small is defined as \$2 million or less in qualified rehabilitation expenditures.
 - And large projects are those with more than \$2 million in costs.
 - Now the new law also boosts the state credit percentage for projects in rural areas and in disaster areas.
- Meanwhile, turning to HUD, looking at some national news, last week HUD published a notice establishing renewal funding inflation factors, or RFIFs, for the Housing Choice Voucher program.
 - RFIFs are used by public housing agencies to adjust Housing Choice Voucher allocations for local changes in rents, utility costs and tenant incomes.
 - Now I've included a link to the HUD webpage with the factor for each fair market rent area with today's show notes, and I'll also tweet out a link.
 - If you have questions on this, please reach out to Rich Larsen in our Toms River, N.J., office.
- Staying with HUD for the moment, I also want to note that HUD published the increase in per-unit mortgage limits for FHA multifamily mortgage programs.
 - Now HUD releases these figure every year.
 - This year, there is a 2.1 percent increase.
 - You can see how that affects each type of housing in the HUD announcement, which I included in today's show notes, as well as tweeted out a link.
- And turning to community development news, the CDFI Fund recently released its latest Qualified Equity Investment Issuance Report.
 - As of the report's May 31 release date, the amount of new markets tax credit (NMTC) allocation authority that's technically still available is nearly \$5.5 billion.
 - And I say technically because a lot of that funding is already soft circled by individual developments, projects, businesses.
 - I should also note \$218 million in allocation authority was issued since the CDFI Fund's last report on May 3.
 - The link to the QEI Report is in today's show notes and I tweeted out a link.



RELATED RESOURCES

CRA Letter

[Letter to banking regulators to strengthen CRA](#)

FY 2019 THUD Appropriations

[House Appropriations THUD Subcommittee Rejects Trump's Drastic FY 2019 Request, Mostly Level Funds HUD](#)

Revised Form 8609

[Form 8609: Low-Income Housing Credit Allocation and Certification](#)

California 4 Percent LIHTC Application

[Online application home page](#)

HUD Renewal Funding Inflation Factors

[Federal Register Notice: Section 8 Housing Assistance Payments Program Fiscal Year 2018 Inflation Factors for Public Housing Agency Renewal Funding](#)

Colorado HTC

[Colorado Job Creation and Main Street Revitalization Act \(H.B. 18-1190\)](#)

QEI Report

[QEI Issuance Report, May 31, 2018](#)