NOVOGRADAC TAX CREDIT TUESDAY PODCAST

Summary: August 11, 2020

In this week's Tax Credit Tuesday podcast, Michael J. Novogradac, CPA talks about the status of COVID-19 relief legislation negotiations in Congress, and he discusses a set of COVID-19-related directives form the White House. Next, he discusses updates to the Paycheck Protection Program FAQ document from the Small Business Administration. Then, he shares some insights on how community development entities can begin preparing for the upcoming calendar-year 2020 new markets tax credits allocation round. He wraps up with brief news about a proposed CDFI national crisis fund, and a new requirement for multifamily property owners in forbearance who have mortgages backed by Fannie Mae and Freddie Mac.

Summaries of each topic:

GENERAL NEWS

COVID-19 Relief

Congress missed a self-imposed deadline last week to advance the next round of COVID-19 relief legislation.

At the time of this recording, Senate Republicans and House Democrats seemed far from reaching an agreement on issues. Issues such as overall cost, the amount of unemployment insurance to provide and the levels of aid to state and local governments. It’s unclear when negotiations between the House and Senate will resume.

No votes are scheduled in the House or Senate until after Labor Day, although House and Senate leadership have informed their members to be ready to return to D.C. for votes if a deal is struck.

With negotiations stalled, so are stalled discussions of tax credit provisions, such as establishing a minimum 4 percent low income housing tax credit rate, new market tax credit extension, or measures to sustain tax credit investor demand through monetizing general business tax credits.

In the meantime, President Donald Trump on Saturday issued one executive order along with three memoranda to provide relief during the COVID-19 pandemic.

The executive order centers on assistance to renters and homeowners. I should note that the executive order is not an eviction moratorium extension nor is it an eviction ban. What the executive order does is direct the heads of the Centers for Disease Control and Prevention and the Department of Health and Human Services to consider whether any measures temporarily halting evictions for failure to pay rent are necessary to prevent the further spread of COVID-19.

The executive order also directs the Treasury secretary and HUD secretary to identify federal funds that could temporarily assist renters and homeowners struggling to pay their rent or mortgage because of the pandemic. The president directed the HUD secretary to take action to help renters and homeowners avoid eviction or foreclosure because of financial hardships caused by COVID-19.

The executive order also directs the director of the Federal Housing Finance Agency or FHFA to review all existing authorities and resources that can prevent evictions and foreclosures related to pandemic hardships.

I should note FHFA has extended its foreclosure and eviction moratorium through August 31 for properties financed by GSE-backed single-family mortgages. On June 29 FHFA also extended the forbearance agreements with property owners with GSE-backed multifamily mortgages. They made the extension from three months to six months. While in forbearance, multifamily property owners may not evict tenants for nonpayment of rent.

In sum, the executive order asks various department heads to consider ways to prevent evictions and foreclosures, but does not explicitly prescribe actions for next steps, nor does the order provide any new funding for rental assistance. Time will tell what effects the executive order will have on eviction and foreclosure rates.

I mentioned that the president also signed three memoranda. One of them directs FEMA to provide funding to the states so states can provide $400 per week in additional unemployment insurance benefits. The funding that FEMA is to provide for this is directed to come from unspent resources from the CARES Act-established disaster relief fund. Also, in the memoranda, to be eligible, states must generally provide a 25 percent match of this $400 per week in unemployment benefits.

The second memoranda directs the Treasury secretary to defer the withholding, deposit and payment of payroll taxes.

The third memoranda extends student loan relief originally scheduled to expire Sept. 30 until Dec. 31, 2020.

I'll continue to monitor COVID-19 relief measures from the White House and Congress, and will report them in future podcast episodes.

To learn more about COVID-19 resources for affordable housing, community development and renewable energy, please visit Novogradac's online COVID-19 resource center. I'll include a link to the resource center in today's show notes and I'll tweet it out as well.

Updated PPP FAQ

While we're speaking of COVID-19 relief, let's discuss the Small Business Administration and the Treasury Department released an updated FAQ document on the Paycheck Protection Program.

The document on PPP was released last Tuesday, one week ago today. The agencies asked and answered 23 questions about loan forgiveness. The answers include what costs are eligible for loan forgiveness.

The document is broken into several topics: first, general loan forgiveness, second, loan forgiveness payroll costs, third, loan forgiveness non-payroll costs, and fourth, loan forgiveness reductions.

As you know, the PPP was created by the CARES Act in March. The PPP helps fund businesses during the COVID-19 pandemic through forgivable loans. The goal of the PPP is to keep workers employed and help businesses survive the pandemic crisis. As a reminder, PPP borrowers have 10 months from the end of their covered period to submit their full forgiveness application. Some borrowers may decide to wait for additional clarity in these and other areas of uncertainty before applying for forgiveness.

Getting back to last week's FAQ document, there were some items that caused raised eyebrows.

An article in Tax Notes discussed portions of the latest FAQ that appear to contradict previous guidance. One example is an answer that specifies what transportation utility fees are considered covered utility payments. Previous guidance had a broader definition of what is eligible for self-employed individuals. Another example is new guidance on how much owner compensation is eligible for loan forgiveness. This new guidance is different from earlier regulations.

Although there were some issues, the latest round of PPP FAQ guidance also addressed some items that definitely needed clarification. One example is that the document clarifies that retirement plan and health care plan costs incurred after the covered loan period are not eligible for loan forgiveness. There's a link to the FAQ document in today's show notes.

The extended deadline to apply for the PPP was last Friday, which means you can no longer apply for a new loan. However, if you need assistance documenting how you're using PPP funds, including areas covered by the most recent FAQ document, please contact Novogradac's Megan Murphy. Her contact information is in today's show notes.

If you're wondering about the future of the PPP, two senators, Marco Rubio of Florida and Susan Collins of Maine, proposed an additional round of PPP funding. That round would target small businesses that experienced large declines in revenue during their first or second quarters of 2020.

I will provide updates when this third round of PPP funding is considered by Congress. As I noted earlier, the PPP proposals are stalled by the impasse in COVID-19 legislation negotiations.

Preparing for the 2020 NMTC Allocation Round

Now, let's shift gears and discuss preparing for the 2020 new markets tax credits allocation round.

As you know, the 2019 allocation awards were announced on July 15. The application window for 2020 new markets tax credit round is expected to open later this summer or early this fall.

My partner Rebecca Darling and my colleague Clint Wilson wrote an article for the August issue of the Novogradac Journal of Tax Credits that includes planning tips for community development entities, or CDEs, heading into 2021. Part of their discussion focused on preparing for the next new markets tax credit application round.

Here are a few considerations from that article.

First and foremost, CDEs should take time to review their projected project pipelines.

Second, CDEs should also make sure that any paperwork that can be prepared ahead of time is completed and as up-to-date as possible. Information that should be prepared before the application round opens includes metrics from a third-party source.

As noted in the FAQ document for the 2019 program application, CDEs will score more favorably if metrics are obtained from third-party sources rather than the CDE's own record. Remember that substantial community impact information is required for the application. Due to this guidance, CDEs have spent considerable time gathering third-party metrics to support the projected outcomes documented in their allocation application.

Another planning tip is to gather as much information for the application even before the allocation round opens. The typical application window being only seven or eight weeks, it's important to prepare as much information as possible beforehand.

To that end, Novogradac offers a wide range of services to help you prepare for the upcoming round. If you need help obtaining a third-party metrics report or gathering other information, reach out to a Novogradac expert. My partner Rebecca Darling can assist you with reviewing and preparing your allocation application. Rebecca can also connect you to the right people to help you prepare a third-party metrics report. I'll include her contact information in today's show notes.

Also, if you'd like to read the article on new markets tax credits planning strategies for 2021 and other similar articles, make sure that you're subscribed to the Novogradac Journal of Tax credits. If you're not subscribed already, I'll include a subscription link in today's show notes and tweet it out as well.

OTHER NEWS

In other news, Sen. Brian Schatz of Hawaii and nine cosponsors have introduced legislation to create a $2 billion Community Development Financial Institutions Crisis Fund. The fund would complement the existing CDFI Fund funding levels. The crisis fund would be activated nationally or on a state-by-state basis by one of two triggers: One is a rule that defines an economic crisis based on changes to the unemployment rate. The second trigger is a major disaster declaration where the individual assistance program is activated.

If enacted, this bill would provide critical funding to communities undergoing economic or natural disasters. I'll keep an eye on this legislation and will report any updates in future podcasts.

In housing matters, the Federal Housing Finance Agency last Thursday announced that multifamily property owners with mortgages backed by Fannie Mae or Freddie Mac must inform their tenants of certain tenant protections. That's if the property owner has entered new or modified forbearance agreements with Fannie Mae or Freddie Mac.

Landlords in those situations will need to notify their tenants in writing that tenants cannot be evicted for nonpayment of rent during the COVID-19 pandemic. Other tenant protections in that scenario include: Applying no fees or penalties for nonpayment of rent and allowing tenants to repay their owed rent over time and not in a lump sum.

Related Resources

White House COVID-19 Relief

Executive Order on Fighting the Spread of COVID-19 by Providing Assistance to Renters and Homeowners

COVID-19 Resource Center

Paycheck Protection Program

Paycheck Protection Program FAQs (Updated Aug. 4, 2020)

Contact: Megan Murphy

Preparing Your NMTC Application

Planning Tips for Community Development Entities Heading into 2021

Contact: Rebecca Arthur

Clint Wilson

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CDFI National Crisis Fund

To amend the Community Development Banking and Financial Institutions Act of 1994 to establish a CDFI National Crisis Fund, and for other purposes (S. 4430)

FHFA Multifamily Property Owners in Forbearance

Multifamily Property Owners in Forbearance Now Required to Inform Tenants of Eviction Suspension and Tenant Protections

HTC Conference

Register for the Novogradac 2020 Historic Tax Credit Virtual Conference