Summary: Sept. 3, 2019

In this week's Tax Credit Tuesday Podcast, Michael J. Novogradac, CPA, talks about the latest report from the Senate Finance Committee's Tax Extenders Task Forces, which includes feedback on extension of the new markets tax credit. He also shares an update on cosponsors for the New Markets Tax Credit Extension Act and the Affordable Housing Credit Improvement Act, as well as an overview of the U.S. Department of Housing and Urban Development's release of fiscal year 2020 fair market rents. He closes out by sharing information about Treasury's fourth-quarter update on its 2018-2019 priority guidance plan, an upcoming meeting for the CDFI Fund's advisory board and a grant program to provide incentives for opportunity zones investments in New Mexico.

Summaries of each topic:

GENERAL NEWS

Senate Finance Committee Task Force Report

- Now turning to Congress, Labor Day is over, but the Labor Day recess for Congress is not.
- Members of Congress are scheduled to return to Washington, D.C., next Monday, Sept. 9.
- While in recess, last week the Senate Finance Committee did release the fourth of six task force reports on tax extenders.
- These are the bipartisan task forces that the Senate Finance Committee formed back in May.
- The task forces were asked to examine more than 40 temporary tax provisions that expired or will expire between Dec. 31, 2017, and Dec. 31, 2019.
- The goal of the task forces is to identify long-term solutions for these temporary tax policies.
- The first three task force reports were released earlier this month.
- Those were by
    - The energy task force,
    - The cost recovery task force and
    - The individual, excise and other expiring policies task force.
- Well the latest report, the fourth report, is from the employment and community development task force.
- This task force is co-led by Republican Sen. Rob Portman of Ohio and Democratic Sen. Maria Cantwell of Washington.
- The six other members of this task force are
    - Republicans Tim Scott of South Carolina, James Lankford of Oklahoma and Todd Young of Indiana and
    - For Democrats, we have Ben Cardin of Maryland, Sherrod Brown of Ohio and Catherine Cortez Masto of Nevada.
    - All task force members, with the exception of Lankford and Young, are cosponsors of the New Market Tax Credit Extension Act.
- The group worked with stakeholders and other interested parties in examining various temporary tax provisions, including the new markets tax credit.
    - Under current law, the new markets tax credit does expire after the calendar-year 2019 round.
- In total, the task force did receive 16 proposals and comments on the new markets tax credit.
- Of the 16 respondents, only one called for repealing the new markets tax credit.
- The 15 other commenters advocated extending and enhancing the new markets tax credit.
- Respondents did include the Novogradac-led NMTC Working Group, as well as other new markets tax credit supporters and participants.

- Several proposals for the new markets tax credit are included in current legislation—proposals, such as
  - Making the new markets tax credit permanent,
  - Increasing the new markets tax credit allocation and indexing the credit to inflation,
  - Providing relief from the alternative minimum tax
  - And more.
- Those are all provisions that are included in the New Markets Tax Credit Extension Act.
- I will say more on that particular legislation in a bit.
- Groups generally agreed that Congress should extend the new markets tax credit *before* the incentive expires.
- A retroactive extension–letting it expire and then extending it–could delay billions of dollars in financing for much-needed community development.
  - I say that in part because the Treasury department under the current administration is unlikely, I believe, to open a 2020 application round until the new markets tax credit is reauthorized.
- Now, there were other recommendations from stakeholders and they included
  - Establishing caps for awardees that would allow for a wider distribution of awards.
  - Modifying new markets tax credit recapture rules to lessen the discount of the new markets tax credit applied by investors and to broaden the type of investments that investors are willing to make.
- There were also recommendations in these letters for the low-income housing tax credit.
- Groups such as LISC and the Affordable Rental Housing ACTION group, they recommended increasing the amount of low-income housing tax credit authority and establishing a minimum 4 percent low-income housing tax credit rate.
  - LISC called for the enactment of the Affordable Housing Credit Improvement Act, whose lead sponsor in the Senate is none other than the co-head of the employment and community development task force: Sen. Maria Cantwell.
- Similar to the other task force reports released earlier, the employment and community development task force had few recommendations of its own, other than advocating for long-term policy solutions.
- Senate Finance Committee Chairman Chuck Grassley had said the plan is to use the task force report findings to draft extenders legislation.
- You can find the task force reports on the Novogradac website.
- I'll include a link to them in today's show notes and Tweet it out as well.

NMTC Extension Act and Affordable Housing Credit Improvement Act Updates

- I mentioned the New Markets Tax Credit Extension Act earlier and said I'd get back to it.
- Well, now is that time.

- I wanted to take a moment to give you an update on the bill's cosponsors.
- As you know, the New Markets Tax Credit Extension Act would permanently extend the new markets tax credit and add an inflation adjustment factor, among other things.
- Well, the Senate version of the bill now has 31 cosponsors including lead sponsor Sen. Roy Blunt of Missouri, which means we have nearly one-third of the entire Senate.
- That includes 11 new co-sponsors that have been added since the start of June.
- The Senate version of the bill is pretty evenly balanced from a bipartisanship perspective: 16 Democrat cosponsors and 15 Republicans.
- Eleven of those cosponsors are members of Senate Finance Committee.
- Turning to the House, well the House version of the New Markets Tax Credit Extension Act now has 97 cosponsors including lead sponsor Rep. Terri Sewell of Alabama.
- That's more than 20 percent of the House and obviously pretty close to getting to 100.
- The House bills won 22 new co-sponsors since the start of June and now totals 51 Republicans and 46 Democrats.
- Very bipartisan.
- Twenty-three of those cosponsors are also members of the Ways and Means Committee.
- The other bill with a cosponsor update that I wanted to share is the Affordable Housing Credit Improvement Act of 2019.
- That legislation would increase the annual allocation of low-income housing tax credits by 50 percent and make series of other important changes to the low-income housing tax credit, including a 4 percent floor for tax and bond-financed tax credit transactions.
- The Senate bill had four sponsors at its introduction and that bill has added 14 more in July and August so the total is now 18.
- That includes nine Democrats, eight Republicans and one Independent.
- Once again, pretty bipartisan.
- Twelve of those cosponsors, including lead sponsor Sen. Maria Cantwell of Washington, are members of the Senate Finance Committee.
- Now turning to the House, the House version has 74 cosponsors including lead sponsor Rep. Suzan DelBene of Washington after being introduced with only four sponsors.
- Here, we have 43 Democrats and 31 Republicans.
- Nineteen of those cosponsors are members of the Ways and Means Committee.
- Now, I note the number of cosponsors for the various bills because that is important.
- It shows the amount of support throughout Congress that these bills have.

- That level of support will come into play when tax writers are putting together larger tax legislation, which can include at least parts of what's proposed in the bills I've mentioned.

FY 2020 FMRs

- Now, I'd like to switch gears from legislation to guidance, to administrative guidance.
- HUD last Friday published fiscal year 2020 fair market rents.
- That would be the fair market rents for several HUD programs.
- The programs include the Housing Choice Voucher program, Moderate Rehabilitation Single Room Occupancy program as well as some others.
- The fiscal year 2020 fair market rents are scheduled to go into effect in less than one month at the beginning of the next fiscal year, Oct. 1.
- Generally speaking, the fair market rent for an area is the amount that would be needed to pay the gross rent of privately owned, decent and modest rental housing with sustainable amenities.
- For the Housing Choice Voucher program, HUD uses fair market rents as the basis for determining the payment standard amount that's used to calculate the maximum monthly subsidy for an assisted family.
- Fair market rents are also used to determine
  - initial renewal rents for some expiring project-based Section 8 contracts,
  - the calculation of flat rents in public housing units
  - and some other purposes.
- Fair market rents also set income and rent limits for areas affected by HUD's high housing cost adjustment for the low-income housing tax credit incentive, tax-exempt bond incentives and other affordable housing programs.
- The fair market rent is typically set at the 40th percentile of the distribution of gross rents in an area.
- There are, though, a few notable aspects of the fiscal year 2020 fair market rents that I want to share.
- For the first time since fiscal year 2001, there are no designated 50th percentile areas in fiscal year 2020 fair market rents.
  - That's because a final rule that was published in 2016 outlined the use of small area fair market rents in the Housing Choice Voucher program instead of the 50th percentile fair market rents.
- What's also notable about the fiscal year 2020 fair market rents is that HUD changed the estimation methodology for fair market rents per the June 5, 2019, notice.
- One of the methodology changes is in issuing local and regional trend factors in an effort to improve the accuracy of fair market rents, as opposed to using the same national trend for all areas.
- Yet another methodology change is that HUD will use the so-called "neighboring policy" for ZIP code tabulation areas that do not have reliable data.

    - Basically, under this approach, HUD determines if there's reliable data for bordering ZIP code tabulation areas and uses this data before going to county-based small area fair market rents.
- There's a lot that I shared with you already, but there's a more detailed analysis of the fair market rents that I want to provide and didn't have time to prepare for this week's podcast, but we will include it in next week's podcast.
- In the meantime, we'd like you to share your own observations of the fair market rents by tweeting them and tagging me at my handle, @Novogradac.

Other News

- Now let's turn to other news.
- The Treasury Department released its fourth quarter update to the 2018-2019 Priority Guidance Plan last week.
    - The Priority Guidance Plan is a list of areas Treasury plans to issue income tax guidance.
    - The update did not include any *new* issues that relate to the affordable housing, community development, historic preservation or renewable energy communities, at least not directly.
    - However, there are several tax guidance projects that remain on the list.
    - They include:
        - the low-income housing tax credit average-income test,
        - the use of private-activity bonds in affordable housing,
        - the use of the historic tax credit with disaster relief, and
        - a clarification of rules for the new markets tax credit.
    - I've included a link to the plan in today's show notes.
- There is some other Treasury news, the CDFI Fund's community development advisory board will hold a meeting Sept. 23 in Washington, D.C.
    - The agenda for the meeting includes a couple of panel discussions and a report from CDFI Fund Director Jodie Harris on activities by the CDFI Fund since the last meeting.
    - There's a link to the meeting notice in today's show notes.
    - The notice describes how to submit written comments and I'll Tweet out the link as well.
- I'd like to turn now to state news and some exciting state news coming from New Mexico.
- New Mexico has announced a program that will provide a $1 million grant for certain opportunity zones investments.
    - The New Mexico grant will go to opportunity zones developments that meet criteria that include being in one of the nine key industry sectors.
    - The funding comes from an existing grant program.
    - This is yet another example as to ways in which local and state governments have been adding incentives and can add incentives to encourage opportunity zones development.
    - I'd encourage you to check out the July issue of the Novogradac Journal of Tax Credits to read about what other states are doing to encourage investment in opportunity zones by offering complementary state provisions.

RELATED RESOURCES

Employment and Community Development Task Force

Employment and Community Development Task Force on Temporary Tax Policy

Senate Finance Committee Task Forces on Tax Extenders Reports

Legislative Updates

New Markets Tax Credit Extension Act

S. 750 cosponsors

H.R. 1680 cosponsors

Affordable Housing Credit Improvement Act cosponsors

S. 1703 cosponsors

H.R. 3077 cosponsors

FY 2020 Fair Market Rents

Fair Market Rents for the Housing Choice Voucher Program,

Moderate Rehabilitation Single Room Occupancy Program, and Other Programs Fiscal Year 2020

Priority Guidance Plan

Treasury Department’s Fourth-Quarter Update to the 2018-2019 Priority Guidance Plan

CDFI Fund Advisory Board Meeting

Notice: CDFI Fund Community Development Advisory Board Meeting

New Mexico OZ Bonus

Announcement of New Mexico Economic Development Program OZ Bonus

Conferences Podcast

[Fall Conferences Preview Tax Credit Tuesday]