NOVOGRADAC
TAX CREDIT TUESDAY
PODCAST

# Summary: October 22, 2013

In this week's Tax Credit Tuesday podcast, Michael J. Novogradac, CPA, discusses tax credit reform, the end of the government shutdown and the raising of the debt ceiling, and Basel III minimum capital requirements. In new markets tax credit news, he discusses an upgrade to the Community Development Financial Institutions Fund's Information Mapping System and a request from the CDFI Fund for 2013/2014 new markets tax credit application reviewers. In low-income housing tax credit news, he shares information about a California law that allows developers of special needs housing to get state tax credits. In renewable energy tax credit news, he discusses a report from the Solar Energy Industry Association about commercial solar installations. In historic tax credit news, he discusses a report about building reuse in Los Angeles and legislation in Wisconsin that would double the state's historic tax credit percentage.

**Summaries of each topic:**

## GENERAL NEWS

### Tax Credit Reform Act

- In general news, let me start by noting that today is the 27th anniversary of the Tax Reform Act of 1986.
- The 1986 Act created the low-income housing tax credit.
- The 1986 Act came 32 years after the previous most significant update of the Internal Revenue Code that occurred in 1954.
- This previous 32-year span leads some to suggest that the political will to make such a major overhaul of the tax code occurs every 30 years or so.
- So is now that time?

### Government Shutdown and Debt Ceiling

- Let's start addressing that question by looking at the agreement that ended the government shutdown last week.
- The agreement that Congress approved late Wednesday night funds the government via a continuing resolution through Jan. 15, 2014
- President Obama signed the bill early Thursday morning.
- The continuing resolution set funding levels at the current sequestration levels.
- That's $986 billion total.
- Congress also lifted the debt ceiling through Feb. 7, 2014.
- These measures are obviously only a temporary fix.
- During the next month and a half, members of the House and Senate will convene a budget conference to attempt to craft a long-term budget solution.
- Senate Budget Committee Chair Patty Murray and House Budget Committee Chair Paul Ryan will lead a bipartisan, bicameral conference to resolve, or attempt to resolve, the different funding levels in the House and Senate budget bills.
    - All members of the Senate Budget Committee will participate in the conference.
    - As will Representatives
        - Tom Cole;
        - Tom Price;
        - Diane Black;
        - Chris Van Hollen;
        - James Clyburn; and
        - Nita Lowery.
    - That's three Democrats and three Republicans.
- The conference has until Friday, Dec. 13, yes Friday the 13th, to come up with a plan to fund the federal government for fiscal year 2014.
- As part of these discussions, they most certainly will discuss sequestration, entitlement reform and tax policy, including tax reform, in addition to overall budget matters.
- Regarding chances of tax reform, The Question is whether this budget committee will reach agreement, and if they do, will that agreement include a framework for pursuing tax reform.
- My hope is that a long-term budget agreement can be reached, such that future government shutdowns and debt ceiling crises can be averted.
- My fear, unfortunately, is that the most likely outcome is that agreement is not reached.

- That said, it is quite possible that sufficient progress is made in the budget conference discussions to avert a pending crisis that could arise around the Jan. 15 government funding deadline and Feb. 7 debt ceiling date.
- I'll bring you updates on the budget conference's activities in future podcasts, and on Twitter at @Novogradac.

**Basel III**

- Turning away from the shutdown and debt ceiling matters for a moment, I have an update on the Basel III regulations.
- As frequent listeners know, Basel III is a comprehensive set of reform measures intended to strengthen the regulation, supervision and risk management of the banking sector.
- Banking regulators say the Basel III rules will raise the level and quality of capital in the banking system.
- One thing that these measures aim to do is improve the banking sector's ability to absorb shocks that arise from financial and economic stress.
- When the complete Basel III package is implemented by Jan. 1, 2019, so-called systemically important financial institutions', or SIFIs', common equity will be required to be at least 7 percent of risk-weighted assets.
- On Oct. 11, the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System published the final rules that incorporate revisions to comply with the Basel III framework.
- The final rule is consistent with the interim final rule that the Federal Deposit Insurance Corporation and others published in July.
- The final rule replaces the OCC's and Federal Reserve's existing risk-based and leveraged capital rules and establishes a new regulatory framework.
- It
  - strengthens the definition of regulatory capital,
  - increases risk-based capital requirements
  - and amends the methodologies for determining risk-weighted assets.
- The rule applies to all national banks.
- Advanced approaches banks are subject to Basel III as of Jan. 1, 2014.
- Advanced approaches banks are those banks that are allowed to develop their own empirical model to quantify required capital for operational risk.
- All other banks must comply with the rules by Jan. 1, 2015.
- It is unclear how the rules will affect tax credit investments.
- They will, all other things being equal or, as an economist would say, ***Ceteris paribus***, lead to a need for higher yields for certain types of investments.
- We'll have to wait and see if all things are equal and what impact these rules will actually have on pricing.
- If you'd like to review the final rule, you can find a copy of the final rule online at www.novoco.com.
- If you have insights on how you see these rules affecting investments, please send us an email to CPAs@novoco.com.

## NEW MARKETS TAX CREDIT NEWS

### Mapping System Update

- In new markets tax credit news, the Community Development Financial Institutions Fund is updating their CDFI Information Mapping System, or CIMS.
- The upgrade will begin at close of business this Friday, Oct. 25.
- Users will still be able to access the present mapping system, but its capabilities will be limited.
- Users will be able to access existing maps, but will not be able to create or save new maps of data.
- This will continue until the CDFI Fund launches the new system.
- The CDFI Fund will launch its CIMS3 system on Nov. 1.
- At that time, the system is scheduled to be fully functional.
- All maps saved prior to Oct. 25 will be available.
- Additionally, users will be able to access new features.
- The CDFI Fund said that it will provide more information about CIMS3 on Nov. 1.
- If you have questions about the process, you can contact the CDFI Fund at cdfihelp@cdfi.treas.gov or at 202-653-0421.
- As always, we invite you to also review the mapping system on the Novogradac New Markets Tax Credit Resource Center.
- If you have comments or suggestions as to how we can improve the Novogradac site, send us an email, using the address cpas@novoco.com

### Contractor Recruits Reviewers for NMTC Applications

- Have you considered being a reviewer of New Markets Tax Credit applications?
- If so, you will be interested in a recent request by consulting and technology services firm F2 Solutions. On behalf of the CDFI Fund, F2 Solutions is recruiting individuals to serve as reviewers for the 2013-2014 new markets tax credit application round.
- Regular listeners will recall that applications for the current round were due Sept. 18 and the next round could result in as much as $8.5 billion in tax credit authority allocations.
- Unfortunately, though we think $3.5 billion is the more likely allocation amount.
- The terms and conditions set out in the online NMTC reviewer application provide some insight for the NMTC community about the application review process
- For instance, while the timeline for the awards announcement is uncertain, the dates noted in the description do give community development entities some insight into the timing for the first stage of the review process.
- Once selected, reviewers will be required to complete training conducted by the CDFI Fund that will require up to 11 hours of work during a 10 day period starting on or around Nov. 18.
- Then, based on the current time line, the initial review of NMTC applications will be conducted between early December and late January.
- According to F2's terms, each reviewer will typically complete 12 to 15 assignments.
- The terms estimate each reviewer will complete two or three application reviews each week, spending an average of four to six hours on each evaluation.
- Reviewers will work independently and remotely to complete this first-stage evaluation of the NMTC applications and the entire process will be web-based.
- In addition to the opening timeline, the description discusses a couple other requirements that provide a peek at the mechanism and process.

- Predictably, reviewers are prohibited from having any known conflicts of interest.
- They are also required to sign a non-disclosure agreement and to destroy all confidential review materials at the conclusion of the review session.
    - This includes any printed copies of the applications, their notes from the application review and all other confidential information.
- To read the complete terms and conditions, or to apply to serve as a reviewer, you can go to www.applicationreview.net.
- Or, for more information about the 2013-2014 allocation round, you can go to www.newmarketscredits.com.

## LOW-INCOME HOUSING TAX CREDIT NEWS

**California Governor Signs LIHTC Exchange Bill**

- In low-income housing tax credit news, we have an update from California.
- Gov. Jerry Brown signed legislation earlier this month that will encourage the development of special needs units.
- The new law allows the California Tax Credit Allocation Committee, or TCAC, to award state LIHTCs to qualifying special needs properties that also have been allocated 30 percent difficult to develop or qualified census tract bonus federal LIHTCs.
- Under prior law, a project could only receive state LIHTCs if they returned a portion of their federal low-income housing tax credits.
- That return requirement has been removed for certain properties.
- Properties qualify for the exchange if at least 50 percent of the units are reserved for people with special needs.
- TCAC is expected to incorporate the change into California's 2014 qualified allocation plan.
- Meanwhile, you can find a copy of the bill at www.taxcredithousing.com.

## RENEWABLE ENERGY TAX CREDIT NEWS

**Report Finds Increase in Commercial Solar Capacity**

- In renewable energy news, the Solar Energy Industries Association and Vote Solar issued a report this month on the top 25 U.S. commercial solar users.
- Regular listeners won't be surprised to hear that commercial solar installations are on the rise.
- What may be a surprise is how **much** the market has grown.
- The report finds that the top 25 companies have increased their solar capacity by 48 percent in the last year.
- The report attributes this growth to factors, including
    - decreasing solar panel prices
    - and greater awareness of the investment tax credit.
- As of August 2013, the top 25 companies had installed 445 megawatts of solar panels at more than 950 facilities.
- In 2012, there were approximately 300 megawatts installed at 730 facilities.
- The company with the most installations is
    - (Drum Roll please)
    - Wal-Mart.
    - It has 215 systems.
- And who is in second place
- Walgreens, with 156 systems
- Retailer Kohl's is third with 140 systems.
- Other companies topping the list include Costco, Macy's and IKEA.
- You can find a copy of the report at www.energytaxcredits.com.

## HISTORIC TAX CREDIT NEWS

### Wisconsin Legislation Expands State HTC

- In historic tax credit news, I'd like to discuss legislation introduced in Wisconsin to double its historic preservation tax credit percentage.
- The current program provides a 10 percent credit to historic buildings that qualify for the federal historic tax credit.
- Two bills, S.B. 132 and A.B. 147, amend the credit so that historic buildings would instead receive a 20 percent credit for qualified rehabilitation expenses.
    - It also would create a 5 percent credit for older, non-historic buildings built prior to 1936, and
    - Would make the credit transferable.
- Last week, the state Assembly voted 88 to 4 to approve the measure.
- The state Senate could take up the bill as soon as next month.
- If passed into law, this will be the second time in four months that the credit has been doubled.
    - The state budget doubled the credit to 10 percent in July.
- To learn more about these bills or to explore other states' historic tax credit legislation, go to [www.historictaxcredits.com.](http://www.historictaxcredits.com)

### Historic Tax Credits Aid Urban Reuse

- In other historic tax credit news, I'd like to talk about a recent report about building reuse in Los Angeles.
- The Partnership for Building Reuse released the report, titled "Learning from Los Angeles," the city where I grew up.
    - The Partnership is a joint program of the National Trust for Historic Preservation and the Urban Land Institute.
        - Its goal is to identify and address obstacles to building reuse in major cities across the country.
- Los Angeles is the pilot city for the program.
- The report identifies barriers to the rehabilitation and reuse of existing buildings and recommends strategies to get around such barriers.
- The report uses information gathered from one-on-one interviews, analysis of development trends and facilitated discussions.
- According to the report, the primary barriers to the rehabilitation of existing buildings in Los Angeles include:
    - Market barriers, such as
        - High seller prices and
        - A shrinking supply of pre-World War II buildings.
    - Financial barriers, which include:
        - Development costs,
        - Lack of equity, and
        - Financial incentives
    - Technical barriers, like parking
    - And regulatory barriers, including
        - Zoning and development standards, and
        - Building and seismic codes.
- The report says that historic tax credits would help spur redevelopment in the city.

- It offers several suggestions to encourage redevelopment of historic buildings.
    - First, it suggests that California create a state historic tax credit program.
    - It also suggests that new incentives, like state historic tax credits, be packaged with existing incentives such as:
        - The transfer of development rights, federal tax credits, property tax relief, energy incentives and rebates, and others.
- To learn more about the report visit our "Reports and Research" tab at www.historictaxcredits.com.