

Election Results and Reactions

An expected red-wave election for Republicans in the Senate and the House of Representatives ended up being closer than expected, with the Democratic Party retaining control of the Senate and the House of Representatives undecided (although trending toward Republican control). In this week's podcast, Michael Novogradac, CPA, and Peter Lawrence, Novogradac's director of public policy and government policy, discuss the results and the repercussions for community development tax incentives. They begin with an overview of the election, the look at potential leadership for each party in each chamber of Congress, including the key tax-writing committees. Then they discuss the effect the election results will have on the lame-duck session of Congress as well as the next two years, before looking at the 2024 election and 2025 expiration date for many tax incentives. Finally, they discuss the Novogradac working groups and how listeners can benefit from being a part of them.

Summaries of each topic:

1. Introduction (00:00-5:06)
2. Overarching Reactions (5:07-7:54)
3. Key Leadership Roles in House of Representatives (7:55-17:12)
4. Key Leadership Roles in Senate (17:13-22:41)
5. Expectations for Lame-Duck Session (22:42-32:15)
6. Expectations for 2023, 2024 (32:16-36:43)
7. Novogradac Working Groups (36:44-44:14)
8. Off-Mike Section (44:15-48:55)

Editorial material in this transcript is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding tax credits or any other material covered in this transcript can only be obtained from your tax adviser.

© Novogradac & Company LLP, 2022. All rights reserved. Reproduction of this publication in whole or in part in any form without written permission from the publisher is prohibited by law. For reprint information, please send an email to cpas@novoco.com.

Transcript

Introduction

[00:00:10] **Michael Novogradac, CPA:** Hello, I'm Michael Novogradac and this is Tax Credit Tuesday. This is the Nov. 15, 2022, podcast.

We're recording this podcast on Monday evening, Nov. 14, 2022. Election results keep coming in, so we want you to know that this is being recorded the evening before posting. So, if there's any new developments on Tuesday morning, you'll know that we didn't know about them yet. So, it has been a week since the national midterm elections, but it wasn't until yesterday, Sunday, that we learned from which party the control of the Senate would reside. And that's the Democratic Party. There are still a sufficient number of unsettled races in the House of Representatives that we don't know yet from which party the next speaker will be selected.

Now, regarding the Senate, as we record this Monday evening, the Democratic caucus has retained at least 50 seats, so that the Senate will stay under Democratic control. Now that Democrats could expand their control to 51, should they win the December runoff in Georgia. Regarding the House of Representatives, depending on the source you reference, Republicans have locked down about 212 of the 218 seats needed to control the House of Representatives. The Democratic Party has control of about 204, which means there are about 19 seats where the results are still outstanding. If you assume that Republicans ultimately win all of the seats that they're currently leading, they would reach 222 seats and take control of the House of Representatives.

As those of you who have been closely following the election season already know, or those of you that have attended many of our conferences, these results are somewhat of a surprise. Going into last Tuesday's voting, there was widespread expectation that Republicans had momentum and were likely to take the House back by a solid margin and perhaps take back the Senate. That was partly because of economic issues and partly due to a long history of midterm elections going against the party of the sitting president. And while it's still more likely than not Republicans take control of the House, it does remain possible that the Democratic Party could win the House and thus hold onto both chambers.

The outcome of the election is significant to all Americans, including stakeholders in the community development tax incentive space. Whether you're active in the low-income housing tax credit, private-activity bonds, new markets tax credits, the historic tax credit or opportunity zones, the makeup of Congress is very important to the chances of legislation that would expand or enhance those incentives or even whether or not some of those incentives could be paired back would be passed.

Now another area in which many podcast listeners are active is, of course, renewable and clean energy. While many legislative priorities of these stakeholders were enacted as part of the Inflation Reduction Act that became law in August, the makeup of the new Congress still will play a role in legislation that could further enhance these provisions.

There's a lot happening and things do continue to change by the day and sometimes by the hour. In today's podcast, we're going to address what we know, what is undecided and possible repercussions at different outcomes in the election. My guest is Peter Lawrence, Novogradac's director of public policy and government relations. Peter has frequently joined me on the podcast to discuss legislation and other happenings in Washington, D.C. If you're a frequent listener to this podcast, you've heard Peter before. Peter works out of our Washington, D.C., office and has his finger on the pulse of Congress and the rest of the federal government. He's an expert on affordable housing and has deep knowledge of community development, historic preservation and renewable energy.

In today's podcast, Peter and I will start with the discussion of what leadership in the Senate will look like, as well as what leadership in the House, albeit there we'll discuss what leadership would look like under different outcomes, by which I mean whether Republican or Democratic Party as the majority in the lower chamber. We'll also discuss both the leadership positions in the Senate and the House, as well as the key tax-writing committees. After that, Peter and I will talk about the upcoming lame-duck session and how that's affected by the election results. Peter will share what community development tax provisions could be included in year-end legislation and what the timing might be. Following that, we'll take a broader view of when a major tax bill could be next considered and how the 2024 election might play into that.

There's a lot that's left to be decided. There's also a lot to talk about now, so if you're ready, let's get started.

Peter, welcome back to Tax Credit Tuesday.

[00:05:04] **Peter Lawrence:** Thanks, Mike. It's a privilege to be back.

Overarching Reactions

[00:05:07] **Michael Novogradac, CPA:** So, before we dive into some of the details and repercussions of last week's election and the ongoing vote counting, it's not really like the election's ended yet. If you could share with our audience some of your overarching thoughts or impressions of the results so far before we get into more specifics.

[00:05:23] **Peter Lawrence:** Well, as you mentioned, Mike, the election was a bit of a surprise. The Republicans were expected to have a red-wave election where 15 to 25 seats would change hands and the House Republicans would have a solid majority and potentially gain a majority in the Senate as well, unifying control of Congress and providing a clear contrast with President Biden for the next two years.

That did not happen and the fact it did not happen as Democrats are perceived to have over-achieved in the election does scramble the political landscape and means that there is not going to be a clear mandate or at least as not as clear mandate as people thought there would be for changing policies in the upcoming Congress. So we're up for, I think, a very tumultuous lame-duck session and for the coming Congress as well, I think a very unsettled political landscape.

[00:06:24] **Michael Novogradac, CPA:** So, thank you for that. And now we can delve into some specifics and let's start with the House of Representatives, even though we don't yet know which party will control the House of Representatives. I do find it interesting that when we were holding our Washington Wire session at the New Markets Tax Credit conference, we did discuss the fact that the control of the Senate could come down to a runoff in the state of Georgia and control of the House could be late in coming in that it would be dependent on the vote counting in California of mail-in ballots that can take weeks to be counted in California. And I must say, when I talked about those two options in the House and the Senate, I thought the Senate option was much more likely to happen than having to wait on control of the House on California vote-counting. But it does appear now that it is going to depend on the vote-counting in California for control of the House of Representatives and as we discussed earlier, control of the Senate appears to be in Democratic hands, it's just a question of whether they'll have 50 seats for 51. And as most of our listeners know, if they have 50 seats in the Senate, because the Democratic Party controls the vice presidency, that's a tie-breaking vote. So that's effective control.

Let's start with what we might expect in the terms of leadership in the House of Representatives for each party. And since it does appear the Republicans will ultimately win control of the House, let's start with them.

Key Leadership Roles in House of Representatives

[00:07:55] **Peter Lawrence:** Great. So today, the House Republican conference is going to have a vote, a private ballot vote for the leader of the House Republicans. And it is largely expected that Kevin McCarthy of California will win that vote. However, that is not the end of the story and in fact, the farther he is in that vote from 218 votes, the harder it will be for him to gain the necessary 218 votes in a public, open roll-call vote on Jan. 3 to actually become Speaker. So, he is going to be very focused on trying to make sure he finds a pathway to get those necessary 218 votes and it will be not so easy and he may need to make some concessions that will constrain his power as speaker and stop him from being able to enact a policy agenda that he sees fit. So that is part of the reason why I think will have a very tumultuous political scene because he's not certain of getting a speakership as we speak. I'll note that his number two, Steve Scalise from Louisiana, is expected to be uncontested for that number two position as the House Majority Leader, but he could potentially step in to run for Speaker if Kevin McCarthy is unable to find a way to getting 218 votes on Jan. 3. So those are the likely circumstances. You've heard all sorts of other crazy scenarios that potentially might result from Kevin McCarthy not

making it, but that's the way I see it at the moment and we'll just have to see how the votes play out in the coming, days and weeks.

If I flip to the Democratic side, the picture is also unsettled. In 2018, Nancy Pelosi promised to her House Democratic colleagues that she would only stay on for two more terms as speaker and we've reached the end of that promise and I think that certainly if the House Republicans do take control as we currently expect them to do so, that would give, I think, a reason for Rep. Pelosi to step down as a House Democratic leader and not pursue another term of leadership. But if Democrats defy expectations and somehow find a pathway to majority, I imagine that her colleagues may say, "We haven't had a strong leader who was able to navigate a very narrow majority for the past two years and ask her to stay on another two years. So, we'll just have to see how those vote counting happens and the House Democratic leadership isn't until after Thanksgiving and she said she's not going to publicly declare her intentions until all the House races are determined, so we'll just have to wait to see there. I'll just quickly note that the number two and number three members of that House Democratic leadership are also in their 80s like Speaker Pelosi. Steny Hoyer of Maryland is the current House majority leader and Jim Clyburn of South Carolina is the current majority whip. It's not clear what those two will do if Speaker Pelosi does step down. Some have suggested that they'll both step aside for new leadership, such as Hakeem Jeffries from New York, but they have not publicly announced their intentions, just like Speaker Pelosi has not. So, we'll just have to see after Thanksgiving, what happens there.

[00:11:29] **Michael Novogradac, CPA:** So, thank you for that, Peter, and I do want to move to the Senate, but not just yet. I'm looking forward to getting your thoughts on the Senate, but let's discuss the House a bit more. There's more to the House of Representatives than the leadership, so there's one committee that our listeners are very interested in: the Ways and Means Committee, which is the chief tax-writing committee in the House of Representatives, which is where significant, I shouldn't just say significant, I should say all tax legislation, significant or not, originates. And the current lead Republican, the ranking Republican, since the Democrats control the House and Rep. Richard Neal is the chairman of the committee, but the current ranking Republican is Kevin Brady from Texas. But as we both know, Rep. Brady is retiring at him this year, which means they'll have to be a new lead Republican on the committee next year and if the Republicans take control of the House, this new lead Republican will be the committee chairperson. And if not, this person would be the ranking member. So what are you hearing in terms of which Republican on the Ways and Means Committee would likely step in as a lead Republican when Kevin Brady steps down.

[00:12:43] **Peter Lawrence:** We know there are three main candidates, all which are current senior members of the Ways and Means Committee. There is Jason Smith from southeastern Missouri, there is also Vern Buchanan from the Gulf Coast area of Florida and then there is Adrian Smith from western Nebraska. And first, of course, there still needs to be the leadership elections, that's the first step in the process, because the leadership elections will determine who is on the Republican Steering Committee,

which makes committee decisions and those elections are happening this week. We anticipate that once those elections and selections have happened, that the committee will meet and make decisions on the new top Republican for the Ways and Means, whether chair as we expect, or a ranking member, if somehow Democrats able to maintain control of the House, the week after Thanksgiving and we'll just have to see who wins that race at that time.

[00:13:41] **Michael Novogradac, CPA:** So, you mentioned three candidates, and maybe you could share what we know about how each of those candidates with respect to support of the low-income housing tax credit, the new markets tax credit, the historic tax credit and opportunity zones. I do remember when I testified in front of the Ways and Means Committee last year, I did get a question for Rep. Adrian Smith on tax incentives, but share your thoughts of what we know about each of their support for these various tax incentives.

[00:14:13] **Peter Lawrence:** Sure. I'll start with Jason Smith because he has the most consistent support across all the various community development tax incentives. He is a co-sponsor of the Affordable Housing Credit Improvement Act, which would enact improvements, enhancements to the low-income housing tax credit. He's a co-sponsor of the New Markets Tax Credit Extension Act, which would make new markets credit permanent and a few other policy changes such as annual inflation adjustments and the ability to take new markets against alternative minimum tax liability. He is also a co-sponsor of the Historic Tax Credit Growth and Opportunity Act, which is the broadly supported historic tax credit legislation. And last, he also was a co-sponsor of the opportunity zones legislation in the last Congress. He hasn't returned to the bill in this Congress yet, but he has that record of support for that. So, he clearly, amongst the three candidates, has the most public support for the community development tax incentives. Rep. Buchanan is also a co-sponsor of the Affordable Housing Credit Improvement Act and the new markets permanence bill, but hasn't gotten on the other tax incentive bill legislations yet. And then as you mentioned, Adrian Smith. He is not a co-sponsor on any of the community development tax incentives, but has been engaged with you in that hearing and has supported efforts on community developments more behind the scenes in the past.

[00:15:49] **Michael Novogradac, CPA:** So, before we get to the Senate, I will ask you to briefly—we don't have time to go into much detail—but if you could also share with our listeners who we expect to be the lead Republicans on some other key committees, namely the House Financial Services, House Appropriations Committee. Actually, just those two committees: House Financial Services and House Appropriations Committees. And maybe you can remind our listeners who the Democratic leads are, which I don't believe we expect any notable changes.

[00:17:09] **Peter Lawrence:** For these committees, we expect the leaders will just change the gavels. So for the House Financial Services Committee, which is currently led by Maxine Waters from Los Angeles, California, she would hand the gavel over to Patrick McHenry from North Carolina and then similarly for the House Appropriations Committee, we expect current chair Rosa DeLauro from

Connecticut to hand the gavel over to Kay Granger from Texas and the Financial Services Committee, of course, has jurisdiction over the HUD programs and banking legislation like Community Reinvestment Act, so that is a key committee we follow. And of course, the appropriation spending committees handle the annual spending bills, the term funding for all federal agencies. And so those are two committees we also follow.

Key Leadership Roles in Senate

[00:17:13] **Michael Novogradac, CPA:** Great. Thank you for that. So now let's turn to the Senate and this time I'm going to ask you to reverse the order. We're not going to talk about Republicans first. The Democrats have retained control of the Senate, so what do you expect to see in terms of leadership of both the entire Senate as well as the key committees which are namely tax, banking and appropriations, and of course by tax, I mean the Senate Finance Committee, but then also the banking and appropriations committees.

[00:17:40] **Peter Lawrence:** So yes, we expect that Sen. Chuck Schumer, who was just re-elected, to also continue as Senate Majority Leader for the next two years. And he will be assisted by Dick Durbin from Illinois as the majority whip. Moving to the committees, we expect the newly re-elected Ron Wyden from Oregon to continue as finance chair and he is of course an original lead co-sponsor of the Affordable Housing Credit Improvement Act, and we expect him to continue to press the housing agenda very much. The other committees that we follow, the leadership is also expected to continue as Sen. Sherrod Brown from Ohio is expected to continue to be the Senate Banking Committee chair and like Maxine Waters handles, or his committee handles HUD authorization legislation as well as banking legislation. And on the Appropriations Committee, we'll see entirely new leadership because both the Democratic and Republican leads are retiring. Pat Leahy, the current chair and Dick Shelby from Alabama are both retiring and therefore Patty Murray, who is just re-elected for a new term will take the gavel from Pat Leahy and Susan Collins, who has been the longstanding top Republican for the subcommittee, will take the full committee gavel or full committee leadership position rather for the Republicans. So, we'll see a little bit slightly different leadership there. In fact, it's a little interesting point: It will be the first time in the history that all four appropriations leads are women and we'll see how that may change policy going forward.

[00:19:20] **Michael Novogradac, CPA:** So maybe just briefly summarize for the Democratic Party, who would lead the Senate as a whole and who would lead each of the three key committees?

[00:19:31] **Peter Lawrence:** Again, Sen. Schumer would lead the Senate as a whole and Sen. Wyden will continue to be Finance chair. Sen. Brown, Chairman Brown from Ohio, continues to be the Banking Committee chair and Sen. Patty Murray will become the new appropriations chair.

[00:19:47] **Michael Novogradac, CPA:** Great, thank you. Now let's turn to Republicans and what you expect in terms of Republican leadership overall as well as the lead Republican on each of those three committees.

[00:19:58] **Peter Lawrence:** I believe that Mitch McConnell from Kentucky will continue to be the Senate Republican leader. There's a little bit of intrigue in that some Republican senators were calling for a delay to the elections this week until after the Dec. 6 runoff between current Sen. Raphael Warnock and his Republican challenger Herschel Walker, but I do believe that he will continue to remain leader and will, still have the support of over half of his Republican colleagues. We also expect that Mike Crapo of Idaho will continue to be the Republican ranking member of the Finance Committee, as well as to mention the other committees, we expect Tim Scott to take over from Pat Toomey, who is retiring at the end of this Congress as the top Republican of the Banking Committee. And as I mentioned actually earlier, we have Susan Collins taking the top Republican spot in the Appropriations Committee.

[00:20:56] **Michael Novogradac, CPA:** And I assume that you would expect that Sen. John Thune from South Dakota, who spoke at our renewable energy conference a few years ago, stay as assistant leader.

[00:21:07] **Peter Lawrence:** Yes, I do. I do anticipate that to happen here. You have a term limit for leaderships, but we don't anticipate that to change.

[00:21:17] **Michael Novogradac, CPA:** So, in terms of the Senate Finance Committee, we know that Chairman Wyden is a strong supporter of the low-income housing tax credit, the new market tax credit, historic tax credit and the like. What can you share about Sen. Crapo's support of various tax incentives?

[00:21:33] **Peter Lawrence:** So as the typical practice of being a ranking member of a tax-writing committee or chair, of course as the case may be, it's not often that you co-sponsor tax bills. Part of the idea behind co-sponsoring tax legislation is you're trying to get members to push forward for priorities in front of the committee that you help lead, so it's not entirely unexpected that he is not co-sponsoring tax legislation, but we know he's spoken in a variety of contexts of support for the low-income housing tax credit. There was a hearing in this Finance Committee in July where he spoke very positively about the Affordable Housing Tax Credit Improvement Act and the low-income housing tax credit, as well as the neighborhood homes tax credit. He has spoken at property events, at various businesses facilities financed by new markets in his state and he also in that July hearing, spoke very positively about the opportunity zone incentive, which was largely authored by a member of the committee, a Republican member of the committee, Tim Scott. So, we know he is got a pretty strong record of support on the community development incentive taxes.

Expectations for Lame-Duck Session

[00:22:42] **Michael Novogradac, CPA:** So, thank you for all those insights, Peter. And I do want to get your thoughts about 2023 and 2024, what this new Congress, once they know who controls the House, what could mean once this current session is over. But this current session isn't over yet, so before we talk about goals for next year and the year after, there are some significant pieces of must-pass legislation and I say must-pass in terms of must-pass before the end of the year, and some of these pieces of must-pass legislation could be a vehicle to carry legislation that would move forth some of our and help us achieve some of our community development goals, or at least our legislative goals. If you could share with our listeners the main items that Congress has on its to-do list this year and when we expect them. Then after you do that, I want to ask you what the chances are of us getting some of our legislative goals accomplished this year.

[00:23:39] **Peter Lawrence:** So I, I do think, Mike, that the results of the election will help increase the chances of community development tax incentives and I think the main sort of set of circumstances that would help us lead to that circumstance is that there are, I think, a decent chance, an increasing chance, that there will be a full fiscal year omnibus spending bill considered in the lame duck and once that is on the floor for consideration, it is a lot easier to add a tax bill to that. So, we do expect that there will be discussions. The month of November will be focused on dealing with leadership issues as we've talked already, but I think as soon as after Thanksgiving, attention will shift very much towards the substantive agenda and I do believe that, especially with the retirement of the leadership of the Senate Appropriations Committee with Pat Leahy and Dick Shelby wanting to leave on a positive note, that with their legacy items that will mean we'll have an omnibus spending as a legislative vehicle for tax legislation.

And there are a number of expiring tax provisions from 2021 and as well as 2022 that are Democratic and Republican priorities that will help foster a deal. While some have suggested that a change in leadership means that some House Republicans may want to push to try and defer decisions until they're in power, I think this uncertainty that they're going to be dealing with a very narrow margin would lead them to try to clear the decks of policies that have issues hanging over their head for the start of the new Congress. So that's why I think that we're likely to have a substantive lame-duck session.

I'll just note also very quickly that if for whatever reason there isn't an omnibus spending bill, the other legislative vehicle we're keeping an eye on is the National Defense Authorization. That's an annual defense policy bill that Congress has passed 62 years in a row and I don't anticipate that they're going to break that record this year and while it typically has not been a vehicle for tax legislation, it has attracted a lot of proposals that have nothing to do with defense over the years, including especially banking-related legislation. So, it's not inconceivable that might end up being a vehicle in the case we don't have omnibus, but I do think that we have a decent chance this lame duck.

[00:26:23] **Michael Novogradac, CPA:** That's definitely encouraging to hear. Let's talk now about some of our specific legislative goals. And by our, I mean the of broader community development community. Depending upon which area our various listeners work in, they'll want one more than the other, but the items that are commonly discussed, and I think most effort is behind, would be an extension of 12.5% increase in low-income housing tax credit annual allocations, which expired at the beginning of this year. There's also lowering the private-activity bond financing threshold below 50%. There's also enacting a new neighborhood homes tax credit. There's also efforts to get permanence for the new markets tax credit. There's also the HTC-GO Act, the historic tax credit act that has a number of pieces to it that many in the historic preservation committee would like to see enacted. And then of course, there's the Opportunity Zones Impact Act, which also includes some reporting requirements for opportunity zones.

So, when you're looking at these individual provisions or these bills with a number of provisions within them, what are the chances that you see of some of these provisions actually getting included in a year-end bill? Given the fact that the election was so close, it seems like, as you were mentioning earlier, there's a better chance that some of these would get included then if it hadn't been so close.

[00:27:56] **Peter Lawrence:** Yeah. And one common thread throughout all these proposals is they're bipartisan. They've got support in both the House and Senate, so they're sort of ideal for this type of bipartisan and the lame-duck agenda that I mentioned is going to be addressed in regular order, meaning you need 60 votes in the Senate and you're going to need at least 10 Republican senators to vote for it. So, I think that these are all sort of possible. I'll note that atop of that list, the low-income housing tax credit proposals, particularly the 12.5% allocation increase for 9% allocations and lowering the private-activity bond financing threshold from 50% seem at the top of the list. That may not mean permanent provisions, given budget constraints, they may only be temporary. But I definitely think they're in the game and on neighborhood homes, the White House in particular viewed both, low-income housing tax credit and neighborhood homes tax credit as a package deal as part of their overall housing supply action plan. Given that the inflation remains a potent issue and a huge concern for a lot of voters, one of the ways you can help address inflation is by lowering housing costs and I think one of the causes of the fact that housing prices and rents have gone up so much has been a lack of affordable housing supply. So, I think there is going to be a serious push for those items. On new market tax credit, although it doesn't expire until the end of 2025, the cost of making it indefinite part of the tax code is much less now roughly \$1.38 billion over 10 years than it will be for every year we get closer to that 2025 expiration date, the cost goes up. So, there's an incentive to try to address it now. And then lastly, I'll just note on opportunity zones, that's probably going to be the one of the top priorities of Tim Scott in a year-end tax bill and one could easily see it as part of the overall package as a sort of Republican priority, added in amongst what are more seemingly Democratic priorities with the other community tax incentives.

[00:30:15] **Michael Novogradac, CPA:** So, I'd be remiss if I didn't ask you also about a disaster bill. Just recently had Hurricane Nicole in Florida and hurricanes before that. So what are you hearing about a disaster relief bill and I mentioned that, of course, because a disaster relief bill in the past many times has had some temporary enhancements of some tax incentives to aid in the recovery and also it by nature be a tax bill, which would lead to the potential for other non-disaster-related provisions to be part of a larger tax bill that includes disaster relief.

[00:30:49] **Peter Lawrence:** Indeed. And Hurricane Ian was a very substantial storm that heavily impacted Florida, so just before the election, Sen. Marco Rubio put forward a \$30 billion-plus recovery package for disasters and I expect that could be very much in play as part of the lame-duck agenda and if Congress were to also have a disaster tax bill, which they often do, given one of the main reasons why Congress routinely does a disaster tax bills to allow households to tap their 401(k)s, which they have historically allowed households to do in disaster. And once they decide to do that, that brings up the possibility of other disaster tax provisions. If Congress were to adopt the same policies they did in December of 2020 on their disaster tax bill, we could see 25 states plus Puerto Rico potentially getting an allocation of disaster tax credit, so about \$2.8, according to our calculations, billion which is significant, it's more than they authorized years ago. Similarly, we could see an allocation for new markets as well as we saw for Hurricane Katrina, where Congress authorized \$1 billion of new markets authority over three years. So we'll see if those proposals gather momentum and steam in the lame duck.

Expectations for 2023, 2024

[00:32:16] **Michael Novogradac, CPA:** So now I'd like to move past the end of this year and look into 2023 and 2024, and the Senate will be controlled by the Democratic Party, the House, we don't know yet if it's Republicans or the Democratic Party, but we think it's Republicans. So let's start with, assume for the moment, that the House is controlled by Republicans, what are the chances of community development tax incentive legislation being enacted in 2023 or 2024?

[00:32:48] **Peter Lawrence:** Well, if my predictions on a productive lame-duck session play out, I will say I don't think there's going to be a lot of activity on community development tax legislation in the next Congress. There just aren't going to be many issues where you're going to be able to get through both a Republican House as we anticipate it will be and a Democratic Senate. And there aren't also expirations of other major tax provisions to help drive that as well. The only one I see on the agenda are the aviation-related taxes in 2023, which routinely Congress has just extended without much of a policy change. So, I think that there may be attention elsewhere in the next Congress, but I don't anticipate much happening if the lame duck sort of really addresses the main expiring tax provisions. I'll just also note briefly that 2025 is shaping up to be a big year. A lot of provisions from the Tax Cuts and Jobs Act expire in 2025, including new markets, as I mentioned previously. And that is I think setting up to be a very substantive year for tax policy. But 2023 and 2024 don't appear to be those years.

[00:34:09] **Michael Novogradac, CPA:** And I guess I would just add when I think of 2023 and 2024 and a really tight Senate, either 50 or 51 Democrats or those that caucus with Democrats controlling the Senate and a House that could end up being one- or two-vote majority is you really start looking at the health of various members of the House and the Senate, and you could really have an impact in terms of not being able to pass legislation because of those sort of issues. We faced some of those earlier this year in the Senate at different times and traditionally you don't have that in the House because there's usually enough of a majority that have to be as relevant. But it's certainly a factor that has to be weighed as you're thinking of 2023 and 2024 and what is or isn't possible in terms of the outcomes in the Senate and the House. So, with that said, I do think we should say something briefly about if the House were to stay in Democratic hands. It would seem to me that if the Democratic Party does in up controlling both the Senate and the House, that there would be some effort at another budget reconciliation bill, where they could pass legislation solely with Democratic votes. Obviously, it was a challenge to get that done this year, over the last two years that ended up with the Inflation Reduction Act. So maybe you could share your thoughts on the potential of some type of budget reconciliation bill if the Democratic Party does retain control of the House.

[00:35:50] **Peter Lawrence:** Well, you're certainly right, Mike, that they will try because after all that is the way you are able to pass your agenda like the key things without interference from the other party. I'll just say that it'll be very difficult, especially if it is a 50-50 Senate. We definitely see the challenges of what we saw the past two years with Senator Manchin and Senator Sinema, both of which would be up for re-election by the way in 2024, being an impediment to passing reconciliation legislation. And then similarly if you are likely to have a very narrow situation if Democrats somehow could defy expectations and retain control and there are a number of House Democrats who are not an automatic yes for a reconciliation legislation. So, I can imagine they will definitely try, but it remains to see how successful they will be.

Novogradac Working Groups

[00:36:44] **Michael Novogradac, CPA:** So, thank you for that. We've discussed a lot of items that our listeners that may be addressed by Congress hopefully this year, but if not this year in the next session of Congress, or maybe it waits until the really big bill in 2025, that will certainly happen one way or the other.

But one thing we haven't mentioned yet, but we should be sure that we mention whenever we discuss legislative matters, is the Novogradac working groups. As our listeners know, we have working groups for many tax incentives, including the low-income housing tax credit, neighborhood homes tax credit, the new markets tax credit, renewable energy tax credits and the opportunity zones incentive. So, this is a good time, Peter, if you could share some of the benefits to our listeners of being part of these groups, or maybe said differently, if I'm a listener who isn't in one or more of these working groups, what are the benefits of me joining?

[00:37:34] **Peter Lawrence:** Well, we certainly keep you up to date with what's happening legislatively, but perhaps even more importantly, for those next two years, we'll be very much into the weeds of regulations, administration of the various tax incentives. The Inflation Reduction Act is going to be a huge implementation project that the administration has just started the public engagement on and with public comments, etc., and so forth and that's going to continue into next year. And there's a number of other provisions in the Affordable Housing and Credit Improvement Act, which the administration could implement as regulations as well and so we anticipate that will be a focus the next two years and maybe potentially also in the neighborhood, sorry, the new markets tax credit arena, potentially consolidating the rounds from next four into a more fewer rounds to get sort of tracks more on in line with the calendar years, so we'll just have to see. There's a lot, I think, that the working groups will be engaged in and I encourage folks to reach out if you're just in joining any of them.

[00:38:47] **Michael Novogradac, CPA:** And I would also encourage folks to reach out and join if for no other reason and help us underwrite all the efforts that we engage in. We'd certainly be appreciative of it, but I'd also note that the principal area, the principal efforts that the working groups put forth is in education in terms of educating the members as to what's happening currently, as well as helping generate recommended practices in those areas that we don't get guidance from Treasury on and there's a sense that we should develop some type of recommended practice. So, there's a bit of safety traveling with the herd. So, a lot of the work of the working groups is just that helping identify tax issues that you may not be aware of, but you want to find out sooner than later and you want to find out in time to course correct. But we spend a lot of time discussing issues and some of the recommended practices and solutions to them. So, it's a nice way to stay current on some of the cutting-edge techniques and opportunities to maximize tax benefits from a given tax incentive. So thank you for sharing that, Peter, and please do stick around for our Off-Mike section, where, as you know, I get to ask you some questions that have nothing to do with the election, or at least nothing directly to do with the election, so you can share with listeners a little bit of your off-topic wisdom and insights.

And to our listeners, I do urge you to join our working groups. You should also consider joining us in Las Vegas early next month for the Novogradac 2022 Tax Credit Housing Conference. We'll be talking about a lot of the issues that we discuss here today, and there'll obviously be a lot more. It's also a great opportunity to network with others in the affordable housing community. I will include a link to register for the conference in our show notes. For one thing, we certainly expect to know control the House of Representatives by the time of the conference, so we'll be able to go down one of the two paths more specifically. I also mentioned, I'll include links with more information to the working groups that Peter mentioned.

Now next week's podcast we're going to return to our "So You Want to Be a LIHTC Developer?" series. I'll be joined by my partner Warren Sebra, from our Portland, Oregon office. Warren and I will talk about something that every low-income housing tax credit development needs. I'm not mentioning

accountant, but you did need an accountant, not mentioning a market study, but you do need that too, both of which we can provide. But here I'm talking about a final cost certification. We'll discuss what a cost certification is. It's important in a low-income housing tax credit transaction. And for those of you that are more advanced, we'll discuss some of the planning opportunities available to help maximize tax credit basis.

You can make sure that you're notified of next week's episode and each week's episode by following a subscribing to the Tax Credit Tuesday podcast. Go to www.novoco.com/podcast to subscribe to and stream the show on our website. You can also follow and subscribe to Tax Credit Tuesday on iTunes, Spotify, Google Podcast, Stitcher, Radio Public, and now on YouTube.

Off-Mike Section

Now I'm pleased to reach our Off-Mike section, where listeners get some off-topic advice and words of wisdom from our podcast guests. So, Peter, the first question I'll ask you is what advice would you give the 25-year-old version of yourself? So this is like you two or three years ago.

[00:44:33] **Peter Lawrence:** If only it was. It's funny, I've been preparing for the podcast, Mike. I was trying to think what was I like when I was 25. It's almost, it feels sometimes a little hard to get back yourself into that space. Things were very different, but I guess the one piece of advice I would have is that I think you don't understand how important it is to network until you've actually been around for a little while. I think getting outside of the circle that you travel with most of all is a hard thing to do when you're just starting off. It's not an easy skill. I'm not a natural networker myself, I must admit, and it took me a while, but I've really gotten to realize because when you make relationships outside of your usual circle, I think it really broadens your perspective and enables you to achieve things I think you normally cannot do by yourself and it opens up, I think, a lot more career opportunities the more so you do that. So, I would've told myself, get out there, get out and network with other like-minded colleagues, in the policy space because I think I didn't do a good enough job of that when I was 25.

[00:45:57] **Michael Novogradac, CPA:** I love that advice. You never have too many friends and you always have too many enemies, no matter how many you have of either. I think the networking advice is very good. I'd also just also note that it's not just networking with those that have more experience and all the rest. It's also networking and staying in contact with your peers because when you're 25, at least for me, I wasn't thinking so much about when I'm 25. Fast forward 20 years. Well, all my peers are going to be in different places and all the rest. So, it's definitely good to be networking among your peers and just networking at all levels.

[00:44:11] **Peter Lawrence:** Yeah. If I could just add a little bit of on that point. One of the great opportunities I had early in my career was as a presidential management fellow, and that really was that I think helped enabled me to network because we all were relatively similar aged. Most of us coming out of grad school, a whole wide variety of areas of federal government and we had regular opportunities to

meet, discuss and see how we're all dealing with the challenges of starting a career in the federal government. So that was a great opportunity that helped me understand the power of networking and why it's valuable.

[00:44:48] **Michael Novogradac, CPA:** That's a great example. So, my second question, I'll only bother you with two today: You work in an area where things are constantly changing, as I noted even earlier in the podcast, sometimes hourly. What general advice do you have for listeners who want to stay updated if they're in a position where things frequently change? And that's of course beyond listening to this podcast every week. But what are some of your tips on staying current and not just, and I would say staying current in areas that are relevant, versus staying current in areas that get stale quickly.

[00:45:24] **Peter Lawrence:** Yeah, that can be a challenge because people often follow rabbit holes and not necessarily stay focused on the North Star. What are your real policy priorities going forward? And it can be a challenge in the policy arena because some things, often big changes often take some time, and it's easy to get distracted by the controversies of the day and I think, to me, what my sort of general advice is that you always want to be able to, despite what's maybe happening elsewhere outside of you, be making sure you always are making progress on some key aspects of what you're trying to achieve and make measurable, take those measurable steps on a regular basis. And you may not necessarily see fruit of that labor right away, but it'll pay off when the opportunity does present itself. I mean, the one way I think about it and to sort of bring it back to the subject of this podcast, is we've been anticipating that there could be activity in this lame duck for a long time and we've been taking the steps and the blocking and tackling to get co-sponsors on the legislation, so we're prepared for this opportunity when we have the best we can and you may be dealing with one week with some political controversy or another, but if you make those blocking, tackling steps over a course of time, that puts you in good position for opportunities that present themselves like we have, right now.

[00:47:05] **Michael Novogradac, CPA:** I think that's great advice. It's trying to filter the incoming by what helps you reach the North Star. I also like to look at things myself personally and say, is this going to matter in a day? Is this going to matter in a week? Is this going to matter in a month? Is this going to matter in a year? And try to bucket things in that way and try to be more focused on the things that'll matter in a year or longer, or depending upon the issue at hand and which goal you're striving for, obviously, the efforts to achieve something in a lame-duck session, you'll say, well, a year from now, if we're successful, it'll matter a year from now, if we're not successful, it won't. But we have to stay focused on getting something done in a lame-duck session. But even then, if a lot of what you work on to get accomplished the lame-duck session not successful, you can advance the ball for next year.

[00:47:58] **Peter Lawrence:** Exactly. Absolutely.

[00:48:00] **Michael Novogradac, CPA:** And I would say the Inflation Reduction Act didn't have a lot with respect to affordable housing, but it did have a number of provisions and that's where nominally a lot of the efforts on affordable housing paid some dividends. Because those provisions got into the Inflation Reduction Act, whereas those efforts hadn't been put forth then those gains would not have been achieved. So that's another example of that. And it's also thanks to you. So thank you for your efforts to make all that your contributions to making that possible.

[00:51:03] **Peter Lawrence:** Thank you, Mike. And I'll just note, even the main renewable energy provisions were under development for a fair amount of time. So, that's another example of you never know what happens. That Georgia runoff in January 2021 all of a sudden led to all this enactment of policy. So, it's again, you have that North Star and to get you ready for those opportunities when they come.

[00:48:53] **Michael Novogradac, CPA:** So thank you again, Peter. And to our listeners, I'm Mike Novogradac. Thanks for listening.

Additional Resources

Email

[Peter Lawrence](#)

Conference

[Novogradac 2022 Tax Credit Housing Finance Conference](#)

Working Groups

[Low-Income Housing Tax Credit Working Group](#)

[Neighborhood Homes Tax Credit Working Group](#)

[New Markets Tax Credit Working Group](#)

[Renewable Energy Tax Credits Working Group](#)