



Louisiana Housing Finance Agency

April 24, 2009

Mr. Michael F. Mundaca
Deputy Assistant Secretary (International Tax Affairs)
Office of the Deputy Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Mr. Mundaca:

The Louisiana Housing Finance Agency (the "LHFA") appreciates your April 27th response to our letter request for clarification concerning the return/reallocation of low-income housing credits under the Gulf Opportunity Zone Act of 2005 (the "GO Zone Act"). The LHFA has shared your correspondence with Foley & Judell, L.L.P., the LHFA's tax credit counsel for review and comment.

The LHFA is pleased with the portion of your correspondence specifically acknowledging that low-income housing credits that increased the State's housing credit ceiling (the "GO Zone Credits") under the Section 1400N(C)(1)(A) of the GO Zone Act "returned in 2009 may be allocated within the GO Zone in 2009." This conclusion is consistent with the practice of the LHFA since 2007 and is based upon the LHFA's understanding that the only statutory or legal basis for accepting the return of GO Zone Credit and thereafter re-allocating such returned GO Zone Credits is through Section 42(h)(3)(C)(iii).

The LHFA is perplexed and disappointed, however, by how the Treasury Department, as a matter of tax policy, concluded that "returned" GO Zone Credits are qualified for return and re-allocation in 2009 but not qualified in 2009 for the housing grant election amount under Section 1602 (Division B) of the American Recovery and Reinvestment Act of 2009 ("ARRA").

According to our tax credit counsel, the failure of the Treasury Department to cite the statutory authority for accepting the return of GO Zone Credits in a year subsequent to their allocation is the source of an unacceptable policy result with respect to exchanging GO Zone Credits returned in 2009 under Section 1602 (Division B) of ARRA.

Michael F. Mundaca
Deputy Assistant Secretary (International Tax Affairs)
Department of the Treasury
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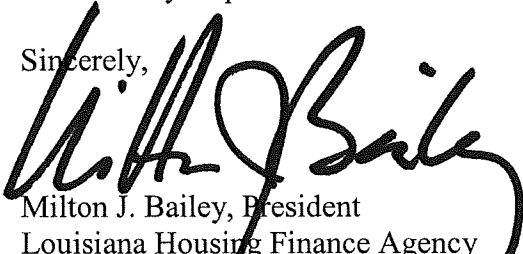
We are also advised by our tax credit counsel that Treasury Department's explanation that returned GO Zone Credits being determined under 1400N(c)(1) is not consistent with Section 1400(N)(c)(1)(C) but creates a statutory interpretative anomaly and an inherent paradox with respect to the plain language of Section 1400N(c)(1)(A) as explained below.

LHFA Allocation of Returned GO Zone Credits: The Gulf Opportunity housing amount for Louisiana under Section 1400N(c)(1) in each of calendar years 2006, 2007 and 2008 was approximately \$56 million. The LHFA fully allocated 100% of the 2006 Gulf Opportunity housing amount in calendar year 2006. A portion of the 2006 GO Zone Credits were voluntarily returned to the LHFA in calendar year 2007. In calendar year 2007, the LHFA fully allocated both (i) the returned 2006 GO Zone Credits and (ii) 100% of the 2007 Gulf Opportunity housing amount even though the statutory formula determined under Section 1400N(c)(1)(A) would have otherwise limited the LHFA to allocating \$56 million of the 2007 Gulf Opportunity housing amount in calendar year 2007.

Section 42(h)(3)(C)(ii) Sole Statutory Authority to Reallocate Returned GO Zone Credits: The only statutory authority to accept the return of GO Zone Credits and to reallocate such returned GO Zone Credits in 2007, 2008 or 2009 is Section 42(h)(3)(C)(iii). The Treasury Department's failure to cite Section 42(h)(3)(C)(iii) as the statutory basis for what the GO Zone Stacking Rule clearly permitted the LHFA to accomplish in 2007, 2008 and now 2009 is problematic. In our view, the Treasury Department is advancing an inconsistent legal theory to permit return and reallocation of GO Zone Credits in 2009 but then not to permit such returned GO Zone Credits to be included in the low-income housing grant election amount under section 1602(b) of AARA.

Prior to finalizing any guidance for the low-income housing grant amount, the LHFA formally requests a meeting Washington with you and other domestic policy makers at the Treasury Department to discuss these matters in detail.

Sincerely,



Milton J. Bailey, President
Louisiana Housing Finance Agency

MJB:beb