NLHA

NATIONAL LEASED HOUSING ASSOCIATION

<u>Recommendations for Statutory Changes to the Tax Credit Program:</u> NLHA's members believe the following changes to the Tax Code would be helpful in facilitating investment in Low Income Housing Tax Credits or otherwise benefit the program. The first three recommendations align with those made by the Affordable Housing Tax Credit Coalition.

1). <u>Temporarily Reduce the Credit Period from Ten to Five Years:</u> We recommend that for credit allocations made in 2008, 2009, 2010, and 2011, that the credit period be reduced to 10 years.

Explanation: Under the Tax Credit program, the credit period is ten years. In the current economic environment, many would be investor companies cannot predict their tax liability over 10 years and therefore are not willing to invest in the LIHTC program. Further, the ten year credit period reduces the value or yield, to the investor because of the time value of money. Such a temporary change in the law would attract new equity to the tax credit program.

2). <u>Permit carryback of the Tax Credit for up to five years and permit credits to be used to offset AMT liability during that period:</u> Current law permits that Low Income Housing Tax Credits be carried back for one year and carried forward for 20 years. NLHA encourages Congress to change the law to permit a five year carryback (like the marginal oil and gas well production credit).

Explanation: By permitting the taxpayer to carryback the credits for five years, investors would know that if their tax liability were to decrease and they could not use the credits for future years, they could be used in any of five prior tax years. Such a revision to the Tax Code would attract new investors, particularly those that may be profitable today, but are not able to predict their tax liability in coming years. There is also the problem of past investors like Fannie Mae and Freddie Mac who are unable to use their tax credits and if they offer these credits for sale at deep discounts, there will be little ability to raise new capital for new properties. By allowing a five year carryback, companies like Fannie and Freddie or others without current tax liability can use their credits for the previous five years where they had tax liability and therefore receive a dollar for dollar return rather than selling the credits for far less. The five year carryback should be accompanied by an ability to use those credits to offset AMT (currently only properties placed in service after 2007 can use credits to offset AMT).

3). <u>Permit Housing Credit Allocating Agencies an additional year to make allocations before having to return unused credits to the "national pool":</u>

Explanation: Agencies that allocate low income housing tax credits are permitted under current law to carry forward any unused credits for one year and if they are not used after that year, the credits go to a national pool for redistribution to other agencies that have allocated all of their credits. The current lack of equity investment is going to result in many agencies not being able to allocate all of their tax credits. NLHA urges Congress to provide an additional year before unused credits to a national pool out of fairness and recognition of the current economic environment.

4). <u>Temporarily permit Low Income Housing Tax Credits to be applied against ordinary income of individuals without any limit:</u>

Explanation: Current law permits individuals who invest in Low Income Housing Tax Credits to apply those credits to no more than $25,000 of ordinary income multiplied by the individual's tax credit. With a marginal rate of 35 percent the maximum credit would be $8750. Temporarily removing this limit would permit wealthy individuals to invest substantial sums in tax credits, which would help offset the sharp decline in corporate investments in the tax credit.

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