Editor's Note:

Since the passage of the Revenue Reconciliation Act of 1993 in August the LIHC Monthly Report has received numerous inquiries about the future of the permanent extension of the Low-Income Housing Tax Credit (LIHC). We posed the question to Senator George Mitchell and we are pleased to publish his response.

GEORGE J. MITCHELL
MAINE

United States Senate
WASHINGTON, DC 20510-1902

November 4, 1993

Mr. Michael J. Novogradac
Novogradac, Fortenbach & Co.
110 Sutter Street, Suite 100
San Francisco, CA 94104

Dear Mr. Novogradac:

Thank you for your recent letter inquiring about the future of the Low-Income Housing Tax Credit.

As you know, in the Omnibus Budget Reconciliation Act of 1993, the Low-Income Housing Tax Credit was extended on a permanent basis after several years of temporary extensions. The program was extended permanently because it has strong support in Congress and with President Clinton as an effective means of providing affordable housing throughout the nation.

Since the enactment of the Credit in 1986, interest in the program has increased, and with the 1989 amendments to the law the state housing finance agencies have been able to make this an integral part of each state's affordable housing initiatives, supplying somewhere around 100,000 units of new or rehabilitated affordable housing to the nation each year. The program works. That is why almost 90 percent of the Members of the United States Senate joined as cosponsors of legislation to make the Credit program a permanent incentive in the tax code. I am confident that it will be a permanent part of the Tax Code for years to come.

Nevertheless, given the history of past tax legislation affecting tax subsidies for low-income housing, I understand there is some concern in the investor community about the federal government's commitment to the Low-Income Housing Tax Credit. Specifically, some investors are concerned about the obligation of the federal government to provide the tax credit for a period of ten years. This is quite understandable given the retroactive effect of the passive loss rules on existing investments when those rules were enacted in 1986.

However, the Low-Income Housing Tax Credit is very different from previous affordable housing tax incentives. Under those programs, real estate investors were generally permitted to deduct their investment losses, including cash and noncash expenses. Generous depreciation and amortization rules provided added benefits to thinly targeted affordable housing investments. Those tax incentives were not part of a specific, well thought out program for affordable housing. With the enactment of the very generous capital cost recovery rules in 1981, the tax rules governing low-income housing investment began to be abused and the revenue cost of the program grew. The passive loss restrictions were enacted in 1986 in large part because the volume of tax losses generated through tax shelters became more than the system could handle and more than Congress intended.

In contrast, the Low-Income Housing Tax Credit is an affordable housing program which Congress specifically designed to provide the tax benefits described in Section 42 of the Internal Revenue Code for a ten year period and in a tax sheltered investment arrangement. The program is well-targeted to provide tax incentives only for those rent restricted units occupied by moderate income households. I have no doubt whatsoever that the promised benefits are secure over the ten year period spelled out in Section 42.

I hope this answers your questions regarding the future of the Low-Income Housing Tax Credit.

With best wishes,

Sincerely,

George Mitchell

George J. Mitchell

Tax Credit RESOURCES

Low-Income Housing Tax Credit Handbook

Call 1(800) 221-9428 to order the Low-Income Housing Tax Credit Handbook. The charge is $110.00 plus postage and handling

Passive Loss Handbook

The handbook on Passive Activity Rules, Law and Tax Planning Strategies, written by Ronald D. Saake, Michael J. Novogradac, and Eric J. Fortenbach.

Administrative Guidelines

A complete copy of the HUD administrative guidelines. A small fee for postage and handling will be charged.

Revised Financial Model

Novogradac, Fortenbach & Co. has revised its financial model designed for monitoring and verifying LIHC projects. The revised model is now available on disk. The cost is $99 plus shipping and handling.

California Tax Credit Application Workbook

The California Tax Credit Application Workbook contains valuable tools to facilitate the application process. The charge is $60.00 plus shipping and handling.