Should HUD Have a More Predictable Way to Set Income Limit Caps?

The U.S. Department of Housing and Urban Development (HUD) annually releases income limits to determine eligibility for low-income housing tax credit (LIHTC) properties. HUD also releases caps that determine the maximum annual income a family can have and still be eligible to occupy HUD-assisted and LIHTC-financed housing, as well as to determine the maximum rent that tenants can be charged. On this week’s Tax Credit Tuesday, Michael Novogradac, CPA, and Thomas Stagg, CPA, discuss the income limits cap—which is 5.92% this year—and whether HUD could have a more predictable methodology to set the cap. They discuss what the cap affects, the history of income limit caps and speculate why HUD changed its methodology in 2022. After that, they look at how a lack of predictability is a challenge in affordable housing, possible methodologies HUD could use and look at key upcoming dates in setting the 2024 income limits and cap.

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Transcript

Introduction

Michael Novogradac, CPA: Hello, I'm Michael Novogradac, and this is Tax Credit Tuesday. This is the July 18th, 2023, podcast.

One of the most important annual events for owners and investors in affordable housing properties is the U.S. Department of Housing Urban Development's, or HUD's, release of income limits. Property owners use HUD's income limits to calculate the maximum annual income a family can have and still be eligible to occupy HUD-assisted and low-income housing tax credit financed housing.

The limits are also used by owners of tax credit housing to determine the maximum rent that tenants can be charged. For the last two years, one of the most impactful factors has been the national cap. The national cap is the maximum percentage that income and correspondingly rent limits can increase for a given year. One year ago, HUD changed the formula—just over a year ago—HUD changed the formula that they used to calculate the cap, which is the central topic that we're going to discuss in today's podcast. Many in the tax credit housing community expected HUD to revert back in 2023 to the formula for calculating the cap that they had used before last year, the cap formula used before 2022. HUD did not revert back. Instead, HUD chose to use the same formula for the cap in 2023 that it used in 2022.

I think it's also worth noting that before 2022, the methodology that HUD used for the cap was the same for the previous 12 years. That is why this year when the income limits and cap were announced by HUD on May 15th, they did come as a surprise. As we discussed in a podcast at that time, the 2023 figures came in significantly lower than many affordable housing stakeholders expected. Now normally you may be asking yourself what is the cap for 2023? For 2023, the cap is 5.92%. As such, the maximum increase in the rent limit for any area is 5.92%. And you probably recognize that that figure is lower than the average rate of inflation for the past year or so.

And let me share some background on the cap. For the 12 years before 2022, HUD calculated the cap using the same inputs that it uses when calculating area median income. They would take the national American Community Survey data and trend it forward using the change in the consumer price index or CPI. It then compared the change in this calculated national median income, adjusted by CPI over the prior year's national median income adjusted for CPI to determine the cap. However, in 2022 HUD altered the formula and they removed the CPI factor and instead HUD only used the annualized change in American Community Survey data for national media income for 2018 to 2019.
Now, as I mentioned earlier, for 2023, the cap is 5.92% and as I also noted, below the rate of inflation over the past year or so. Well, under the pre-2022 formula, that percentage cap would've been about 14%.

In May, my partner Thomas Stagg was a guest on the podcast to discuss the meanings and implications of the 2023 rent and income limits. Thomas also wrote a blog post and an article for the Novogradac Journal of Tax Credits about this year's limits, and I will put links in today's podcast show notes to those articles and to the blog post. Now today Thomas will be back to talk about a bigger picture question that's the topic of a column that Thomas and I co-wrote for this month's Novogradac Journal of Tax Credits.

That column traces the history of the cap and whether HUD should change the formula it uses to determine the income limits cap. We address the question of whether it makes sense for HUD to have a more consistent and public method that it's going to use to calculate the cap. Thomas is one of the most frequent guests on Tax Credit Tuesday, and in my view, is the nation's leading expert on rent and income limits outside of HUD. Yeah, I did say that. I believe he's the nation's leading expert outside of HUD. Now, Thomas is a key player in creating and updating the Novogradac Rent and Income Limits Estimator and is also the leader of our Income Limits Working Group. More about that in a bit.

Thomas does work out of Novogradac's metro Seattle office, where he focuses on a broad range of clients, including many affordable housing stakeholders. In today's podcast, Thomas and I will discuss what was expected with respect to income limits release and what actually happened regarding the income limits release. We'll also look at the history of income limits and most notably the history of the cap, as well as discuss some of the presumptions as to why a cap exists. We'll talk about how the cap affects the feasibility of affordable housing and we'll also look at what to expect going forward. And with time, we'll discuss some of the alternative methods HUD could use to calculate the cap.

As you can tell, we've got a lot to discuss today. So, if you're ready, let's get started.

So, Thomas, welcome back to Tax Credit Tuesday.

[00:05:39] **Thomas Stagg, CPA:** Thanks, Mike. It's good to be back.

[00:05:42] **Michael Novogradac, CPA:** Hopefully I didn't embarrass you by calling you the leading expert outside of HUD on income and rent limits.

[00:05:47] **Thomas Stagg, CPA:** Well, I think it's not the first time you've said that this year, so I'm used to it now.
Overview

[00:05:51] Michael Novogradac, CPA: It is not. So I would like to level set with listeners before we get into the more significant part of the podcast dealing with the cap, by having you give an overview of what happened with respect to 2023 income limits as compared to what many owners and investors expected.

[00:06:09] Thomas Stagg, CPA: Yeah. So again, similar to last year, it was a year where income limits saw large increases. Across the country, most areas were up. In fact, only about 2% of areas had decreases. So all in all, it was fairly good news for increases. If we look at area median income, the average change was right around 10%.

But for tax credit programs, we use what's called very-low-income, or as I'll refer to it as VLI. Now VLI, HUD has some adjustments that they make and the cap is one of those. And so, when we look after HUD did these various adjustments, the average change in VLI was 5.45%. And that's mainly, so we look at that difference between AMI of 10% and VLI of 5.45%, and that's mainly due to this cap and the cap impacted about 85% of areas. When we looked at doing projections, and like you mentioned earlier, that HUD would likely go back to the historical method of calculating the cap, we expected the cap to be closer to 14%. So if the cap was at 14%, it would've resulted in about 16% of areas being capped, so very in line with kind of historically what we see with number of areas capped and how the cap would’ve been calculated. But that's not what happened, of course. And that's why we're here to talk about what prompted this change, why were so many areas capped.

[00:07:31] Michael Novogradac, CPA: Thank you for that. And when we think of the cap, as I mentioned in the intro, the cap ends up affecting the income levels, the maximum income levels tenants can have and still qualify for tax credit housing. And it also affects the maximum rent that an owner of tax credit housing can charge for a given unit. But as we discussed in preparing for the podcast, those aren't the only two items that the cap indirectly affects. So, if you could share with the listeners some of the other areas that the cap ends up affecting.

What Else Cap Affects

[00:08:01] Thomas Stagg, CPA: Yeah, I think the biggest one that'll be of interest to our listeners is the impact to DDAs and QCTs. The HUD income limits indirectly are a component of each of those calculations, so it changes what areas qualify or it could change which areas qualify for DDA and QCT, but also impacts a lot of other programs that we don't normally think about. The tax-exempt mortgage revenue bonds for home ownership financing, so people trying to qualify for bonds for home ownership and eligibility for disability income support payments to certain veterans. And I think even more importantly to the projects that we're working on right up there with QCTs and DDAs is it impacts supportable debt for new projects, which of course when you think about rent limits, that's probably
already included there, but I just wanted to make sure that we mention that that is this indirect impact of these capped limits.

[00:08:55] **Michael Novogradac, CPA:** So, when I think about the cap and the 5.92%, as I noted in the intro, the fact that it was below the rate of inflation for 2022 is pretty significant for the long-term viability of tax credit properties. But before we talk about some of the other issues here, I thought it would be worthwhile taking a bit of a walk back in time. Because I mentioned in my intro that before 2022, when the methodology was changed before 2022, the methodology for determining the national cap was unchanged for 12 years. Which begs the question that if I look back 12 years from 2022 and I’m at 2010, what happened to 2010? And maybe you could address that in terms of the sort of where the cap was in 2010 or the concept of the cap.

**Income Limits Cap History**

[00:09:45] **Thomas Stagg, CPA:** Yeah, so I’m actually going to go back even two years earlier to 2008, and that’s when the Housing Economic Recovery Act passed and part of the Housing Economic Recovery Act, it instituted this new project-specific hold harmless test for tax credit projects. So basically, now tax credit projects, once it’s in service, it's income and rent limits will never decrease. And once that happened, HUD said, "Hey guys, we've been implementing this hold harmless policy for Section 8 income limits primarily to not harm low-income housing tax credit projects." And so after HERA was passed in October of 2009, HUD issued a request for comments on discontinuing the hold harmless policy and in HUD's notice they said this policy is commonly referred to as the hold harmless policy, it was implemented to avoid jeopardizing the financial feasibility of existing housing projects in instances where program rents were tied to Section 8 income limits i.e. low-income housing tax credits, that was me adding the i.e. Section 8 income limits have been maintained at the same level until such a time as income limit calculations produced increases.

So, HUD mainly was doing this hold harmless to benefit tax credit projects, but they didn't really like it because they felt that holding it harmless meant that tenants who truly needed the assistance maybe were getting crowded out by tenants who didn’t actually need assistance because they were above the actual income limits for the area without the hold harmless policy.

HUD asked for comments on this and to discontinue to hold harmless policy. And they specifically asked for comments on discontinue to hold harmless policy. And if they did do it, what they should do about HOME rents. Because HOME rents are a program controlled by HUD where the rents are at least partially influenced by the HUD income limits. But they didn't ask any specific comments related to if they should do a floor or cap on this. So the first time we hear about the floor or cap was when HUD contemporaneously released their findings or what they were going to do in relationship to discontinue the hold harmless policy when they contemporaneous release that with the 2010 income limits in May of 2010.
So, HUD issues their final notice. They had received 24 comments on the notice of discontinue hold harmless. I’d like to think now that we as an industry are so much more savvy that if this happened now, they would receive 2,000 comments, potentially. I don’t know, but definitely more than 24. But this was the first time that caps on increases and decreases were specifically mentioned, and it was interesting kind of reading through this to get into HUD’s mind as to why they felt that a cap was needed. And there’s a couple of quotes I’m going to pull from that final notice I think are interesting.

The first one says, "the current hold homeless policy allows for any increase and there have been increases over 5% from time to time. Large increases are no better for the affordable housing program than large decreases." So we start to see this hint that HUD doesn’t really like large increases in income limits. Continuing, "HUD's goal with this change is to provide more manageable rent increases by capping increases to the maximum 5% or twice the change in national median income." So again, we see that HUD is saying that they are trying to make more manageable rent increases for tenants and that there is some kind of thought here that large rent increases are bad for tenants. And then finally, the hold harmless policy did not limit large increases and this did prove harmful for tenants.

So, we see that if you read between the lines here and look at this, you see that I think at first we thought that the caps were really trying to catch data outliers, and that's what we look at the first 10 years. That's what you see about 10% of the areas are capped and so those tend to be data outliers, like large swings that maybe it was just a bad survey that year and so HUD's trying to protect, we all thought HUD was trying to protect that against that. But when you go back and read, you see that all along HUD was concerned about these large year-over-year increases. But you know what this policy doesn't do is it doesn't really tell us what HUD considers a manageable or allowable increase. And maybe getting ahead of some of our questions there, but I think it's interesting that two times change in national median income figure, I think was HUD saying, well, if we get into really inflationary time periods, greater than 5% might be reasonable but in low inflation time period, 5% is probably a good number. So it’s interesting look back here to see where that cap originally came from and what caused it. And I really think this is an unintended consequence of the HERA regulation because I don’t think people really thought that the HERA would instantly lead HUD to do away with its hold harmless policy.

Michael Novogradac, CPA: You're right. Do away with hold harmless policy or institute caps.

Thomas Stagg, CPA: Yeah. Or definitely not institute caps. That’s right. That is for sure.

Michael Novogradac, CPA: And I would just remind listeners that that HERA change was because the previous approach to calculating area median income limits was done in a fashion that was based upon the decennial census and HUD found in 2000 that once that data was available, which is obviously a few years after 2000, that the projected increases in area median incomes were, across
the nation many areas were substantially higher than what the decennial census showed. So, there was going to be a period of time where a lot of areas weren't going to see any income increases.

Obviously from a sustainability of the operations of a property with rising operating expenses every year, that wasn't viable. And that's what led to the HERA change that created these HERA Special type units. And there's more about that in the article that Thomas and I co-wrote. I don't know if you wanted to say anything more to that, Thomas and we can move on.

[00:15:42] **Thomas Stagg, CPA:** I think we can move on.

**Why Did HUD Changed Methodology?**

[00:15:44] **Michael Novogradac, CPA:** Because that's ancient history that has too much relevance to today. But I reference to the HERA, I wanted to build out that a little bit more, but let's now turn to 2022 because I haven't been able to find any written guidance where HUD specifically says why they changed the cap methodology in 2022. So, I thought I'd ask you to share your thinking behind why HUD changed methodology in 2022 and if you have any other thoughts about the original imposition of HUD and why they created the cap share those as well, but more focused on why the cap methodology changed in 2022?

[00:16:24] **Thomas Stagg, CPA:** Yeah, so I think to me it comes back to what we read in that final notice from HUD where they talk about they think large increases are harmful. And so, when we look at 2022, under the old cap methodology, the cap would've been 25%. Now, granted, the cap for 2022 was still 11.89%, so I'm not sure where HUD draws a line at large increases. But I think that there was a little bit of discomfort with, especially 2022 coming right off of the pandemic that having increases of 25% would've been seen as too large and too large for tenants to handle. But I think what was so surprising is we flash forward to 2024, we kind of, we thought, well, 2022 was this weird year. The big increases were largely caused by this huge inflation spike with HUD trending the ACS data for inflation. So, we thought 2023 we'd get back to normal. And when we do the calculation, we see that the increase under the old methodology was 14% and now if I'm just being looking at the numbers and saying how different is 14% versus 11.89%, they don't seem that different. It seems though, that's why I think a lot of us thought that HUD would go back to the previous method and that 2022 was such an outlier, this 25% increase that we do back to this traditional method of calculating it, but of course they didn't. And like you said, HUD hasn't, I haven't seen anything in writing from HUD on this, but HUD did speak at NCSHA and they mentioned that part of the reason, so the question came up there. it said, "Hey guys, you're capping 55% of the areas last year, 85% of the areas this year, is this really, is this cap really correct? Is this right?" And one reason why they said that they think the cap might be right is that they are concerned that the CPI trend factor is trending incomes faster than actual incomes are growing. So if they had trended at inflation during '22 and '23 without the use of the cap, that in '24 when we get the 2022 ACS data and they do their '24 calculation that there might be another re benchmarking and HUD wants to avoid that.
And so, part of the reason why they've instituted the cap is to make it so is because they think that CPI is growing faster than incomes. And so, it's served to slow that down a little bit.

And I think that again, if we look at what they, if we read between the lines, I think HUD is worried about large increases in rent. And so, I don't know, I don't want to say this happened directly, but I think there was probably some pressure to figure out a way to tweak the cap so they used the same wording, right? Our change in national median income, we're just changing how we calculate national media income for the cap, but find a way to tweak it so that the increases were slowed down during this period coming off of the COVID pandemic.

Michael Novogradac, CPA: Thank you that, Thomas, I will also give you a bit of kudos because while there's a general belief that the in 2023 HUD would revert back to the pre-2022 approach, I do remember on lots of the discussions we had in the Income Limits Working Group, and the rest you did include, if they kept the 2022 methodology, it would be about 6%. So, it wasn't as if it wasn't considered as a possibility, it just wasn't the expectation. In the column that we co-wrote, we also note that the lack of predictability, when I say lack of predictability, I mean the fact that the methodology change in 2022, it definitely came as a surprise. The fact that in 2023, 2022 is being used. Now for 2024, we don't know if 2022 will be used if before, methodology before '22, they'll revert back to. So this lack of predictability as to the national cap, we note in the article that we co-wrote that it limits affordable housing development and I thought it'd be useful if you share with listeners why that's so.

How Lack of Predictability Limits Affordable Housing Development

Thomas Stagg, CPA: Yeah. Well, first I want to say that HUD, again at NCSHA, so you know, it's not publicly written down anywhere, but they did hint that they would likely use the same cap for 2024. But I think our concern is that HUD has now shown that they want to use this cap as a way to avoid large increases. And so, we sit here and say, well, OK, we know what they did for the last two years, we can calculate that way next year. But how do we know that if that ACS data shows a large increase and so therefore the cap under the new methodology is larger, that they won't continue to meddle in some way and say, OK, the ACS data analysis has 25%, let's revert back to a different way that shows a 10% increase. And so it creates this question about what is an acceptable level of increase for HUD? Because we sit here and we look at the inputs that we can calculate, and we say, OK, under this methodology of the cap is X. But we're just now on the back of our minds, we're always going to have to think, is HUD going to step in and further tweak this cap methodology? And that causes uncertainty, right? And anytime we have uncertainty in this industry, we gravitate to the most conservative answer, right?

So, when we have uncertainty added to our underwriting, our underwriting has to become more conservative. When we have uncertainty in light of how this is going to impact DDAs and QCTs, we have
to have more uncertainty in our underwriting and therefore more conservativeness. And so that's really, I think, what's causing the, that's what I think our root issue is with the cap. And we don't think that 5.92 is a wrong number or bad number. It's the fact that we don't know for sure what that number's going to be going forward.

And when I look at the income limit calculation outside the cap, it's very formulaic. It's been very consistent for a long time. Now HUD has tweaked the calculation as they've gotten better data, right? Going from the census data to the ACS data, etc. But all those tweaks were mainly done to use more relevant and better data, so they all made sense to us and it's resulted in this very formulaic calculation. But now we have, after we do all the formulate calculation, we have this uncertain question on the end as to is this too big of an increase? And when we have that, it just causes, as I said, uncertainty and therefore conservativeness.

[00:22:50] **Michael Novogradac, CPA:** And I would just add sort of two comments or amplify or even give an opinion. On the one, with respect to the 5.92%, and I do look at the 5.92% and say, "that's below the average rate of inflation in 2022," and I do think a cap should not be below the rate of inflation.

[00:23:11] **Thomas Stagg, CPA:** Fair, fair point.

[00:23:12] **Michael Novogradac, CPA:** So that, if there was some overarching additional rule, it would be that the cap is never below CPI or something of that nature. Obviously for our listeners, it doesn't mean that every area would get the cap. The cap is just the limit. It doesn't mean that every area was affected by the cap, 87% or 86% were this year. But it's more just to say if the area median incomes that's calculated by HUD based upon Census data or at a rate greater than 5.92%, they ought at least be able to go up to the rate to keep pace with inflation. So, I would note that.

And the other thing I would just note is, in terms of the manner in which the rubber hits the road, if you will, with respect to the lack of predictability of these caps is really seen in private-activity bond-financed transactions that have financing gaps. And you're trying to come up with ways to close the financing gaps so you can apply for bonds and start development. And to the extent that you can look at the census data and project what the income limits are going to be going forward a couple of years, you can then underwrite more operating income and as a consequence, support more bond debt such that the project can be financially feasible.

And if we have a reliable way of calculating the caps, we're able to come up with a better estimate as to what those income limits are going to be. They'll generally be a little bit higher, particularly in inflationary times and as a consequence, more developments are financial feasible and more private-activity bonds will be used to build affordable housing. Absent that, the way it's done now with the more conservative underwriting, there'd be fewer of those units that kind of get started. You could say, well,
eventually they'll get started, but you’d rather be starting development now given the affordable housing shortage in the nation. But I’ll get off my rant.

**Possible Other Methodologies to Set Cap**

And we’ve talked about the fact that there was a different methodology used the last two years versus the prior 12. And in the article, we touch upon some alternative approaches to determine a cap. It's not like we settled on one, but we do think a public discussion of a methodology for determining the cap should be held and that the methodology should be transparent. But the existing methodology is transparent. The problem isn’t transparency, the problem is predictability and reliability. So I think both you and I are of a mind that let’s develop an approach, make it public and know that that’s the approach that will be used when the HUD calculates the income limits.

So, with that as kind of background, if you could share some of the approaches that we mentioned in the article or otherwise that we think should be considered, and I would note to our listeners, this is something that our Income Limits Working Group will be discussing in advance of potentially, weighing in with HUD as to our thoughts.

[00:26:16] **Thomas Stagg, CPA:** And I actually really like the previous method that HUD used. And the reason why I like it is we’re using the same input factors that we use with income limits. We’re using the same ACS data and we’re using the same CPI. And so that methodology to me, it really just caught outliers. It caught ones that are changing much larger than relative to the rest of the population. It seems those should probably be the ones that are slowed down a little bit because we don’t know why they’re outliers, but they’re clearly outliers. And so, I really liked the previous methodology of taking the ACS, inflated by inflation and then looking at the double that year-over-year change and I like the doubling factor and I’m going to talk about that with the next one.

I think the other one that we suggested is double the change in CPI for the previous years. And now when Mike went on his rant earlier, he said you ought they be able to increase at least by CPI and I think that, or inflation, and we’re using CPI as a proxy of inflation here, and I think that limiting it to just inflation, we will never allow a project to catch up if their increases happen later. So, if we have inflation for three years, but incomes in your area are slower to increase and then react to inflation later, if you’re capped at inflation for that year, you never get a catch up for the years when inflation was higher than your growth.

And that’s why I think the doubling of inflation or some X factor of inflation. Doubling, I think is nice. One-point-five, if somebody wants to be, I don’t know if there’s going to be a give and take here with HUD, but I think that something where it allows you increase faster inflation to account for the fact that often incomes respond later than inflation. So, allowing us to have that kind of trailing impact of doing that doubling is good. Or we could go back to this original thought that we really should just be catching outliers, and so do we just define what percentage or outliers and say, "OK, we’re going to place the cap
at whatever the top 10% of areas are, so you can increase, but anything that's above, you know this, the top 10 percentage increases, they're going to be capped at wherever that may be." And to me that gets more to the point of we're really trying to capture outliers here as opposed to the concept of large increases are bad and I'm not sure I agree with that statement wholeheartedly that HUD has said and large increases are bad in some cases and good in other cases, right? It's good for new projects, it's good for supporting tax-exempt bonds. And so, placing a cap on the outliers I think makes a lot more sense than just trying to have some sort of artificially created rent control here. And so those are the ones that I think make the most sense. We'd love to hear others. We'd love to have you send in your ideas. And obviously we'd love to have you join the Income Limits Working Group and have a more robust discussion about what we think an appropriate cap would be.

Michael Novogradac, CPA: Thank you for that, Thomas, and I appreciate you pointing out the potential methodology of doubling the change in CPI and that the, if you just use the CPI, then the years where you didn't get the high increase, you wouldn't be able to make up. So, I just to make clear for listeners, as you know, I don't think it should just be the CPI, that the CPI was. If you're going to have this other methodology, whatever other methodology you have, there ought to be this overriding that if that other methodology is below CPI, you should at least get CPI for that year. But I'd also note, because I know in a lot of developer clients listening to this podcast will be saying, "Mike, I wish my costs were rising at CPI." We all we're hearing about how insurance costs are going up double digits and various other operating expense line items are going up much faster than CPI. So, CPI isn't as if that is going to be enough per se on a given property. And ultimately the one thing developers do agree to, property owners and like, to housing is that they'll increase their, they can increase their rents at the rate of area median income rising and we're just trying to look at the caps and say those caps were limiting what originally the statute said the rules were in terms of additional rent over time.

Thomas Stagg, CPA: So, Mike, if you wanted to get rid of the cap completely but still have a cap, you'd cap it at two times the change in insurance cost, your cap would be 50% a year.

Michael Novogradac, CPA: Right. That would not be it because of the year when insurance costs fall a little bit and all the other costs rise.

Thomas Stagg, CPA: Yeah. The year that insurance costs fall though, I'm sure developers are looking forward to that ever happening.

Michael Novogradac, CPA: Uh, yes they are. Yes, they are.

Thomas Stagg, CPA: I'm being a little facetious there, obviously.

Michael Novogradac, CPA: No, obviously the percentage increases we're seeing in insurance the last few years aren't sustainable. Something will have to change and there's efforts on that front as well. But we're going off on a tangent here. So now that we have the 2023 income limits and
Trying to weigh in with HUD about publicizing the cap methodology in advance and earlier. But as you and I have discussed, that doesn't mean developers, lenders and investors should just sit in their hands until next year, when those 2024 income limits will be released.

I thought it'd be useful if you share with our listeners some of the interim data that will be released. And with that interim data informing the 2024 income calculations. And if you could also share with listeners what resources are available to stay informed and influence possible changes.

Upcoming Important Dates

[00:32:00] **Thomas Stagg, CPA:** Yeah, so I'm going to start with our income limit estimator. And so this is our calculation we do where we estimate future income limits. Now, HUD has all but publicly stated that they're going to use the 2022 ACS data for 2024 income limits. But we do have the 2021 ACS data and we have a lot of areas that were capped. And so, we've already updated our 2024 estimates using 2021 data and saying, hey, if 2022 is going to probably be better than 2021 in most areas, that this will give you a baseline to say, well, we think we'll increase at least this much because we're showing what areas are going to chew through this cap that they already have and how that cap impacts you. So, we already have some data out there that's helping inform areas we're looking at.

But in September, we'll receive that 2022 American Community Survey data. And that's what we think HUD is going to use. And so, people who subscribe to the estimator, as soon as we get that data, we're going to calculate the new cap, we're going to calculate the new income limits based on the 2022 method or 2023 methodology, and push those out to all of our users so that they'll be able to see, OK, what is this 2022 ACS data doing to our limits? And it'll also help us understand once we get that 2022 raw ACS data, we can compare that to the 2022 capped HUD data from last year and see was this cap really needed? Are we seeing that actual incomes were increasing similar to the rate of CPI growth? And that's going to also help us inform some of these conversations that again, the Income Limits Working Group is going to have with HUD over the next coming months as we give them our thoughts. Often it's us giving them our thoughts on how the 2024 limits should be calculated and HUD does a great job listening. And they are very present in these discussions, but often they don't tell us what they're planning to do yet because they have a whole host of other stakeholders that they have to worry about.

And so that's not next interim data. We're going to get the 2022 ACS data and start updating the calculation then. And then of course, come January we'll get those final CPI numbers that HUD's going to be using. So all this data's going to help get this more informed picture of how 2024 is going to look, but also help us inform how we should be interacting with HUD. How we should be potentially, I don't like the word lobbying, but lobbying with HUD as to what the correct income limits should be. And also seeing if there's, or what the correct cap should be. And also seeing if there's a need to reach outside of HUD to do more discussion with other stakeholders to figure out what the right answer is here.
So this next year there's going to be a lot of data coming in and it's going to really help us know, do we need to really get out there and lobby HUD? Or do we think the cap's going to be sufficient? Our area is stagnating. We don't know these answers yet, but it's going to be really informed come September.

[00:35:00] **Michael Novogradac, CPA:** And in terms of the Rent and Income Limit Estimator, what will you be doing with respect to the cap? We have a pre-2022 methodology and a 2022 and 2023 methodology.

[00:35:16] **Thomas Stagg, CPA:** So right now, we're looking at continuing the 2022-2023 methodology, because that's basically what HUD has told us they plan to do at our working group calls and at NCSHA in front of bigger groups. They've said this methodology seems to be working. But I think when we get that 2022 data, as we discussed earlier, the fact that we see that HUD is using this more as a way to smooth increases than necessarily to catch outliers. That if that 2022 data comes back with a cap that's 25%. I'm going to tell you right now, I'm probably not going to be comfortable using that as our cap, right? So somewhat that, and that's what we got, that's that whole discussion earlier about this unpredictability of the cap that it is going to cause us to pause anytime we're seeing double-digit average increases, to say, OK, what is tolerable for HUD and what is, what are they going to do with this?

And so, we'll probably end up calculating it both ways, the old way, the new way. And seeing what that cap is. And then also when we send out the limits, we'll say, here's the cap that we used, but we don't know if HUD will use a lower number. And if they use a higher cap, well, good. You're getting more than you were anticipated and that's always better. But it's going to be a little bit more of an iterative process and more discussion on it than there's been in the past.

[00:36:38] **Michael Novogradac, CPA:** It's definitely almost more of a of a pre-cap number and a post-cap number.

[00:36:43] **Thomas Stagg, CPA:** Right, right. There's that too, right?

[00:36:46] **Michael Novogradac, CPA:** Because you just don't know what the cap will be. But hopefully, there'll be some discussion of the cap in advance of the release, and we'll get some predictability but that'll take time.

[00:37:01] **Thomas Stagg, CPA:** Yeah, and that's one thing. We really talked to HUD about that, when they, this year for 2023 income limits, right? They couldn't use the 2020 ACS data because it wasn't available. Census didn't release it and HUD did a great job of telling us early what they're applying to do. I think we've really been hammering that message that, if you're going to change the cap again, letting us know as early as possible is great, and especially if you're taking public comment on it, so that we as an industry can prepare for that and be able to have a more robust and informed discussion with them about the cap ahead of time.
[00:37:37] **Michael Novogradac, CPA:** So, Thomas, let me thank you for spending time today to go through these details. There's so much more we could talk about, but we only have so much time.

And then to our listeners, as Thomas said, the Rent and Income Limit Estimator will be updated after the American Community Survey data release in September and Thomas will be writing a blog post about the data. And if you subscribe to the Rent and Income Limit Estimator, you'll get updated information. And if you're not already subscribing, I'd encourage you to reach out to Thomas and become a subscriber. I'll also include a link to this month's column in today's show notes, that column that Thomas and I wrote on this issue.

Thomas, as you know, please stick around for Off-Mike section, when I get to ask you some fun off-topic questions.

Now turning into next week, be sure to tune in next week. I should say be sure to tune in the next two weeks for a special discussion on the overall tax equity market. I'm going to have three of my partners joining me. That's right. This is a first. We haven't had three guests before. The three guests will be my partners Brad Elphick, Dirk Wallace and Tony Grappone. They'll join me in this discussion of the market for tax credit equity. Over the two podcasts, we're going to discuss the size of the various tax credit equity markets and when I say tax credit equity markets, I'm going to be particularly focused on the low-income housing tax credit, new markets tax credit, renewable energy tax credits and the historic tax credits. These equity markets around these credits. We'll also look, or I should say, we're going to look at how each of them affect each other as well as how proposals to expand and enhance some of these incentives could affect the size of the equity market and correspondingly the pricing. In addition to talking about the size of the current equity markets and proposals to expand existing credits, we'll also talk about proposed tax incentives, think neighborhood homes, think middle-income housing tax credit, and the effect that they could have on the overall credit equity market.

And then we're also going to discuss some of the seemingly unrelated issues that have a direct impact on tax credit equity pricing, things like the general economy, the global minimum tax, community reinvestment regulations. All of these have a indirect effect on community tax credit equity pricing. Now you can see, it took me a while to discuss what we're going to discuss, so you now know why it'll take us two episodes to cover these variety of tax credits in the tax equity market more generally in each of the areas more specifically. It's going to be a very interesting discussion that'll benefit stakeholders in any community development area. So once again, two-week, two-part podcast series starting next week. And maybe most importantly, if there are questions that you think we should cover in these two episodes, please email me at CPAs@Novoco.com.

**Off-Mike Section**

Now, I'm pleased to reach our Off-Mike section, where I get to ask Thomas for some fun, off-topic recommendation and get some words of wisdom from him. So, Thomas, you've been a guest on the
podcast quite often, but don’t worry, I haven’t run out of questions. They are new questions. I believe you can correct me if I’m wrong, if I don’t remember correctly.

And podcast listeners know, and you know that starting with the pandemic, I got back to reading a lot more books or listening to them on Audible, and I’m always looking for book recommendations. So what book would you recommend to me and our listeners?

[00:41:21] Thomas Stagg, CPA: Well, Mike, so I am heading to Montana at the end of next week, so I’m going to recommend "A River Runs Through It." Now, I’ve actually never seen the movie, but I’ve read the book many times. The book is great. It’s a great look at life and family and relationships and everything like that. But I’m going to leave everybody with a quote that I like from it that isn’t one of the more popular quotes, and it is one reason Paul caught more fish than anyone else was that he had his flies in the water more than anyone else. "Brother," he would say, "There are no flying fish in Montana. Out here, you can’t catch fish with your flies in the air." And you can probably guess a lot of reasons why I like that quote. But it just always reminds me that sometimes we just need to get to work and whether it’s work or spending time with your family or whatever, you just need to get out there and get your fly in the water and you’ll be more likely to catch fish.

[00:42:18] Michael Novogradac, CPA: So, I do like that quote a lot. So, I had not recalled that quote from the book. It's been a while since I've read it. So yeah, it's probably, worth rereading. And you should watch the movie at some point.


[00:42:35] Michael Novogradac, CPA: I was going to say, just so long as you’re not driving.

So, my second question, we're starting our fall conference season, well after Labor Day. It'll be the Novogradac Housing Tax Credit and Bonds conference. It'll be in New Orleans, and it’s at the end of September, Sept. 28th and 29th. And I always like to ask guests what tips they have to get the most out of one of our conferences. So what are some of your tips?

[00:43:01] Thomas Stagg, CPA: I think there’s a couple things. I think No. 1 is really being open to the experience, right? And so being open to going to a session that maybe you hadn’t thought about before, that’s going to teach you something new and learn something new from it. Being open to kind of meeting new people and talking to new people. Maybe that goes back to my earlier quote, right? Get your fly in the water and meet somebody new.

But my true life advice for the New Orleans conference is schedule a later flight home on Friday and find somebody new at the conference, and on Friday afternoon, take them to Cafe Du Monde to get some beignets. Don't eat inside Cafe Du Monde, but walk up and eat beignets overlooking the Mississippi. It's really a great chance to sit back and reflect on the conference, reflect on your hopefully
new people that you met there and just a good time to enjoy life, and that's my favorite thing to do at the New Orleans conference. Aside from hearing Mike give the Washington Wire, of course.

[00:43:57] **Michael Novogradac, CPA:** Well, thank you for that. That's a great tip and I can visualize it right now. I may be following up on that tip. There might be a lot of podcast listeners up there looking over the Mississippi. I can visualize it very well. And I would say in terms of probably a tip that builds off of that is you can download the app in advance. And the app lists various attendees and you can actually reach out to attendees in advance of the conference through the conference app to set up those meetings so that can be a nice way to plan in advance of the conference folks that you want to make sure that you meet with. So that would be an added tip, but thank you for that, Thomas.

[00:44:43] **Thomas Stagg, CPA:** Yes, thank you.

[00:44:46] **Michael Novogradac, CPA:** OK. Thank you, Thomas. And to our listeners, I'm Mike Novogradac. Thanks for listening.
Additional Resources

Email

Thomas Stagg

Novogradac Journal of Tax Credits Column

Is it Time for HUD to Settle on a Consistent Method to Determine the Income Limits Cap?

Blog post

Better Understand HUD 2023 Income Limits

Novogradac Tool

Rent and Income Limit Calculator©

Working Group

Income Limits Working Group