Administration Budget Contains Tax Credit Proposals

The Obama Administration's FY 2015 budget proposes tax law changes relating to federal low-income housing, new markets, and energy tax credits. Nearly all were in the White House's FY 2014 budget request.

Proposed changes to the low-income housing tax credit (LIHTC) program include:

- Permitting states to convert up to 8% of their annual private-activity bond volume cap authority into additional housing tax credit authority;
- Allowing developers to obtain 4% housing credits without utilizing tax-exempt financing, provided that the state's annual private activity bond volume cap is reduced as if bonds were issued for the project;
- Changing the formula for computing the monthly credit percentages for 70% present value ("9%") and 30% present value ("4%") housing credits. The discount rate used to fix the monthly percentages would be raised to equal the average of the mid-term and long-term applicable federal rates for the relevant month, plus 200 basis points. The current method for computing the monthly percentage for the 4% credit for tax-exempt bond-financed projects wouldn't change;
- Allowing greater income mixing in LIHTC projects by adding an optional third set-aside election. Under this, at least 40% of a project's units would have to be rent-restricted and occupied by tenants with incomes that average no greater than 60% of the area median income (AMI). Therefore, some units could have income limits as high as 80% of AMI if there are offsetting units below 60% of AMI. No units would be treated as having income limits below 20% of AMI. A special rule would apply to rehabilitation projects containing units receiving ongoing subsidies (e.g., rent, operating, interest) administered by the U.S. Departments of Housing and Urban Development (HUD) or Agriculture;
- Requiring state housing agencies to add the preservation of federally assisted affordable housing as an 11th selection criterion in their qualified allocation plans;
- Allowing real estate investment trusts investing in housing credits to designate as tax-exempt some of the dividends they pay out to shareholders; and,
- Requiring long-term use agreements to include protections for victims of domestic violence, applicable to all units in LIHTC projects.

Other Proposals

The Administration's budget also proposes:

- Making the new markets tax credit program permanent, increasing the annual amount of allocation authority to $5 billion, and permitting credits generated by post-2013 qualified equity investments to offset federal alternative minimum tax liability;
- Making the renewable electricity production tax credit permanent and refundable;
- Creating a new allocated Manufacturing Communities Tax Credit, with about $2 million in annual allocation authority during 2015-2017, to support qualified investments in communities hit by military base closures or mass layoffs;
- Increasing and making permanent the Section 179D tax deduction for commercial building energy-efficiency improvements, and a new deduction for qualified retrofits of existing commercial buildings at least 10 years old;
- A new America Fast Forward Bond program. States and localities could issue these subsidized taxable bonds to finance governmental capital projects, programs, and activities eligible for private activity bond financing, and for certain other purposes;
- Increasing from 25% to 35% the cap on the net proceeds from certain types of private activity bond issues that may be spent on land acquisition costs;
- Simplifying tax-exempt bond arbitrage investment rules;
- Taxing "carried interest" as ordinary income; and,
- Restoring tax deductions for contributions of historic preservation conservation easements (e.g., historic building facade easements).

(Details: http://tinyurl.com/q3nb7g6) TCA