



Defending Tax Credits

Advocates of the federal low-income housing, new markets, and historic rehabilitation tax credits are gearing up for a full-court press of Congress when lawmakers return September 9 to try to protect and preserve their programs against any future legislative threats, including possible tax reform legislation.

At the same time, they'll be looking for opportunities to secure approval of pending legislative proposals to enhance their tax credit programs.

This fall's session is fraught with risks for tax credit advocates and uncertainties about what Congress may do – or not do – in the coming weeks and months as it wraps up the 2013 session. This is largely because of major must do and may do legislation, conflicts between and within the two parties over tax and spending policies, and the ongoing gridlock between Democrats and Republicans in the House and Senate.

Must do actions include funding the federal government beyond September 30 and raising the federal debt ceiling thereafter. May do items include the fervent desires of tax-writing committee leaders to move forward on tax reform legislation, possible action on

further deficit reduction and modifying sequestration, and potential housing finance reform legislation.

Tax Reform

Recent developments have suggested a chance for action on tax reform this fall – but challenges, too.

A news report published August 1, citing aides, said House Ways and Means Committee Chairman Dave Camp (R-Mich.) planned to draft a tax reform bill in coming weeks and hoped for Committee mark-up in October.

Meanwhile, a number of senators submitted letters to the Senate Finance Committee by a July 26 deadline outlining current federal tax expenditures they would like to see continued, repealed, or modified, and new items added. These were in response to an invitation made to their colleagues June 27 by Finance Committee Chairman Max Baucus (D-Mont.) and Ranking Member Orrin Hatch (R-Utah), in a Dear Colleague letter that said the pair want to begin writing tax reform legislation with a blank slate. One letter, from Sen. Tom Coburn (R-Okla.), reiterated his previous call for the elimination of housing, historic, and new markets tax credits.

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In July and August, Camp and Baucus, seeking to promote the visibility and urgency of tax reform, ventured out from Washington on a tax reform tour, visiting a new markets tax credit-financed bakery in St. Paul and businesses in California, Pennsylvania, and New Jersey. Both only have through 2014 to move a tax reform bill through their committees: Camp's term as chairman ends next year and Baucus is retiring.

Prior to the start of the August recess, however, Senate Majority Leader Harry Reid indicated he won't bring a tax reform bill to the Senate floor unless it will raise significant amounts of new tax revenues – an objective shared by President Obama but not by Baucus and an anathema to Congressional Republicans.

President Obama weighed in on housing issues August 6 in a speech in Phoenix in which he called for steps to promote homeownership, revitalize communities, and reform the housing finance system. For the event, the White House released a list of previous

Administration proposals and positions including support for the low-income housing tax credit (LIHTC) and for permanent extension of the new markets tax credit.

In recent interviews, tax credit advocates voiced different opinions on whether they thought Congress is likely to pass comprehensive tax reform legislation this year. Some expressed uncertainty. Washington, D.C. attorney Richard Goldstein, a partner at Nixon Peabody LLP and general counsel to the Affordable Housing Tax Credit Coalition, felt that enactment won't occur in the current, 113th Congress, which runs through 2014, and that the odds could well be slim in the next Congress.



Richard Goldstein

Photo by Nixon Peabody LLP

Housing Tax Credit

Regardless, Goldstein said that supporters of the housing credit must continue their aggressive advocacy efforts with lawmakers and their staffs.

"We want to make sure that nothing comes out of

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either of the tax-writing committees that is going to negatively impact the low-income housing tax credit," says Goldstein, such as a bill that repeals the program or reduces the amount of credits. He noted that approval by either tax-writing committee of any such provision, even if not ultimately enacted, would set a dangerous precedent when lawmakers get around at a future point to writing a tax reform bill.

Advocates for the low-income housing tax credit, individually as organizations and collectively as a coalition through the Affordable Rental Housing A.C.T.I.O.N. Campaign, have been busy for more than a year – and during the August recess – seeking to educate lawmakers and their staffs about the benefits of the LIHTC program, through meetings, events held at tax credit developments, and submission of policy papers and letters of support. Advocates for the new markets and historic tax credits have undertaken similar actions.

Barbara Thompson, Executive Director of the National Council of State Housing Agencies, which is advocating for the continuation of the housing credit and tax-exempt housing bonds, says, "I do think we are being heard. We're being told by the tax committee staff that our message is getting through. But we can't take anything for granted in the process. The risk is great and so the effort must be great."

The LIHTC industry got a helpful boost August 1 with the introduction by Sen. Maria Cantwell (D-Wash.) of a bill (S. 1442) that would make the minimum 9% housing credit rate permanent and establish a minimum 4% rate for acquisition expenditures. The bill had 20 original co-sponsors. "We're pleased that it was introduced and was done on a bipartisan manner," said Goldstein, who with other industry advocates is also pushing for enactment of these provisions.

Advocates hope for introduction of a companion bill in the House at some point.

During the summer, LIHTC advocates succeeded in getting editorials supportive of the housing credit published in a number of newspapers, including the *New York Times* and *Los Angeles Times*.

New Markets Tax Credit

The *New York Times* editorial also urged the continuation of the new markets tax credit. The current author-



Photo courtesy of the New Markets Tax Credit Coalition

*Verso Paper Mill, Quinnesec, Michigan
New Markets Tax Credits financed equipment and
upgrades at the mill*

ization for the program expires at year-end.

The New Markets Tax Credit Coalition is one of the groups lobbying for the continuation of, and enhancements to, the NMTC program. "We're advocating for a permanent extension of the new markets tax credit, about a 40% increase in the annual credit authority, and an exemption from the [federal] alternative minimum tax for new markets investments," says Bob Rapoza, of Rapoza Associates, a Washington, D.C. firm that represents the New Markets Tax Credit Coalition. All three provisions are in a bill (S. 1133) introduced in June by Sen. Jay Rockefeller (D-W.Va.) that has five other senators as co-sponsors. Under the bill, the amount of annual allocation authority would be adjusted yearly based on an index starting in 2014. The amount that year would be slightly less than \$5 billion, said Rapoza. The Coalition and other NMTC advocates are working on getting a companion bill introduced in the House.



Bob Rapoza

Rapoza said the Coalition and its members have been very active in the House and Senate educating lawmakers and their staffs about the NMTC program and seeking their support for its continuation and the amendments to improve it. "We're working on a grass roots letter right now that we hope to have ready when Congress returns," he said. "And we expect, based on what we did in the last Congress, that we'll have more than a thousand organizations will have signed onto it."

Rapoza said the new markets tax credit, during

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2003-2011, leveraged more than \$55 billion in investment in the poorest communities in the country. And that \$55 billion resulted in 350,000 jobs in communities with very high unemployment rates.

Historic Rehabilitation Tax Credit

The Historic Tax Credit Coalition and other organizations have been meeting with lawmakers and their staffs, getting them out to events at renovated buildings, and submitting position papers, in efforts to convince Congress to preserve the federal historic tax credit program and even making enhancements.

A modernization bill (S. 1141) introduced in June by Sen. Ben Cardin (D-Md.) would make a number of improvements to the historic tax credit program. The measure has four other senators as co-sponsors.



“We have our champions on both sides of the aisle in the House and Senate,” says John Leith-Tetrault, Chairman of the Historic Tax Credit Coalition and President of the National Trust Community Investment Corporation, an affiliate of the National Trust for Historic Preservation.

Appropriations for Housing Programs

It appears almost certain that Congress will have to pass one or a series of continuing resolutions to fund the federal government starting October 1, the beginning of the new fiscal year. Congress hasn't completed passage of any of the 12 regular FY 2014 appropriations bills.

Up until shortly before the August recess, there had been hope that Congress might complete approval in September of a compromise appropriations bill to provide FY 2014 funding for federal housing and community development programs administered by the U.S. Department of Housing and Urban Development (HUD). Different versions of the measure had been approved by the full appropriations committees in both the House and Senate, but both measures stalled and were pulled prior to floor votes. The chairman of the House Appropriations Committee termed prospects for passing the bill in September bleak at best. **TCA**



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