# Structuring a Revenue Procedure Compliant Deal







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## Revenue Procedure 2014-12: Background

- Applies only to Section 47 Historic Tax Credit transactions
- IRS "will not challenge partnership allocations of section 47 rehabilitation credits by a partnership to its partners"
- "does not apply to federal credits other than the section 47 rehabilitation credit or to state credit transactions"
- "does not indicate the circumstances under which the [IRS] may challenge allocations of such other credits"

### Revenue Procedure 2014-12: Partner Status

- Reasonably anticipated value must be contingent upon partnership's net results and not substantially fixed in amount
  - Ownership flips
  - Investor preferred returns vs. Contingent cash flow to Investor
  - Tax equivalency payments
- Investor cannot be substantially protected from partnership losses
  - Guarantees and reserves

## Revenue Procedure 2014-12: Partner Status (cont.)

- Role of Reasonableness Opinions in Rev. Proc. compliant deals
- Key arrangements
  - Developer fees
  - Management fees
  - Incentive fees
  - Lease terms
  - Any other arrangements

## Revenue Procedure 2014-12: Other Topics

### — Structures

- Single Tier vs Lease-Pass Through
- NMTC or LIHTC twin deals
- Lease Arrangements
  - Sec. 467 leases
  - Subleases to developer or developer-affiliate
- Investor exits

## THANK YOU

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