

Structuring a Revenue Procedure Compliant Deal



**IPED's Annual Historic
Tax Credit Summit**
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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

Speakers

Liz Young

Partner

Nixon Peabody LLP (Moderator)

Leslie Galfond

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