Washington Update

for IPED's Learn the Basics: Housing Tax Credits 101 Conference

MODERATORS

Kelly Behr

Associate

Nixon Peabody

PANELISTS

Peter Lawrence

Director of Public Policy and Government Relations Novogradac



@NovocoPolicy

Deborah VanAmerongen

Strategic Policy Advisor

Nixon Peabody

Emily Cadik

CEO

Affordable Housing Tax Credit Coalition



@EmilyCadik

David Gasson

Executive Director Housing Advisory Group



@DSGasson

Agenda

Affordable Housing Credit Overview
Housing Credit and Bond Proposals
Key Legislative Players and Priorities
Regulatory Guidance
Advocacy

Affordable Housing Credit Improvement Act

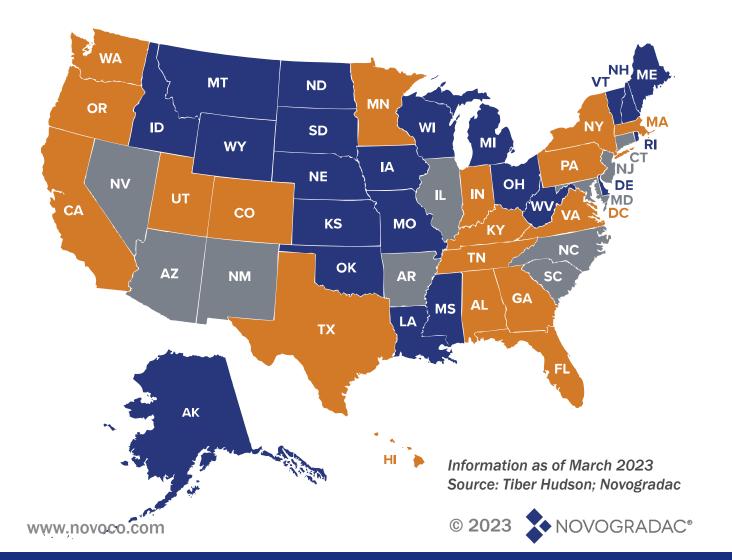
EFFECT OF PRIMARY PROVISIONS

Lowering the 50% Test to 25%

Up to **1.48 million** additional rental homes over **10** years (estimate as of December 2022)



Oversubscribed (18 states & Washington, D.C.)

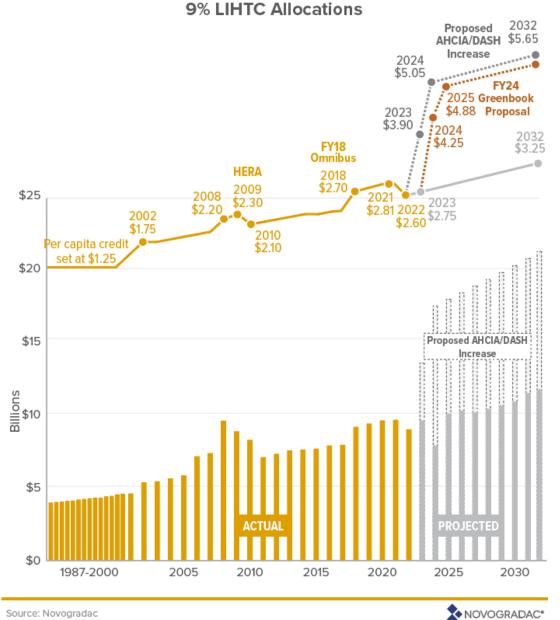


Affordable Housing Credit Improvement Act

EFFECT OF PRIMARY PROVISIONS

Increase in 9% allocations

450,100 additional rental homes over 10 years (estimate as of December 2022)



Source: Novogradac

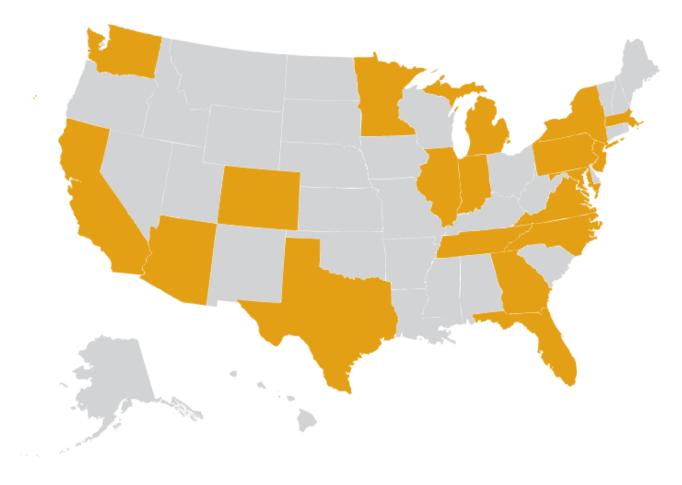


Affordable Housing Credit Improvement Act

ESTIMATE AS OF DECEMBER 2022

Additional Homes Over 10 Years

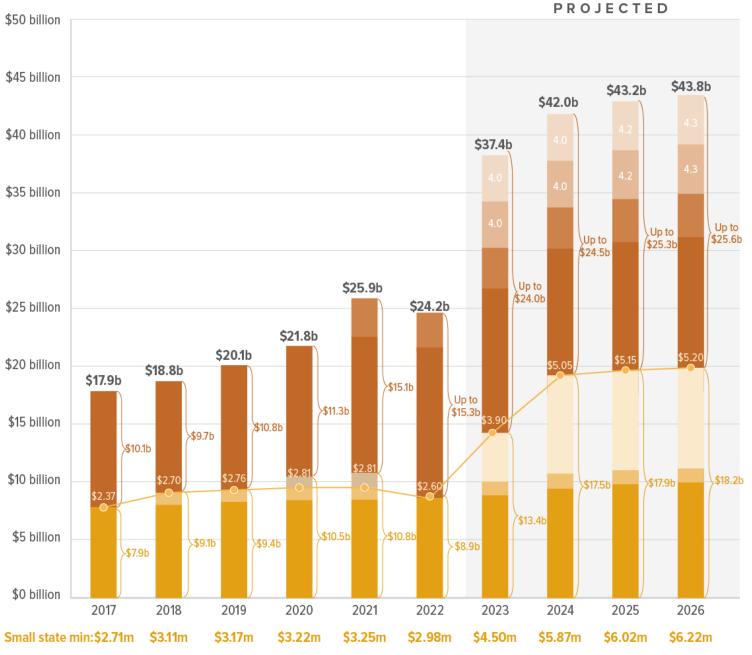
1	California	306,100
2	Georgia	155,000
3	Texas	138,100
4	New York State	115,200
5	Florida	108,900
6	Tennessee	62,100
7	Maryland	61,900
8	Washington	60,900
9	Massachusetts	57,800
10	Illinois	52,600
11	Colorado	47,600
12	Virginia	47,300
13	Indiana	45,500
14	Michigan	44,400
15	Pennsylvania	43,700
16	Minnesota	41,000
17	Arizona	40,200
18	District of Columbia	39,700
19	North Carolina	38,500
20	New Jersey	38,200



Annual LIHTCs: 9% and 4% (estimates)

As of December 2022



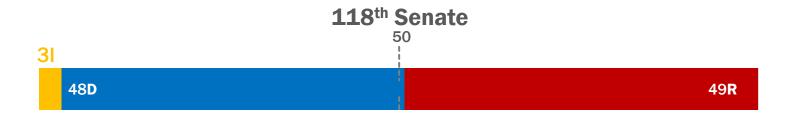


Midterm Elections



117th Senate

48D 50R 2I

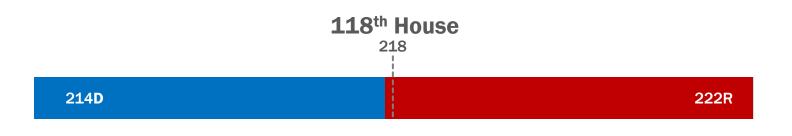


AZ Sen. Sinema changed party registration from Democrat to Independent, but is caucusing with Democrats for committee purposes



117th House

222D 213R



Congressional Leadership

SENATE HOUSE



Sen. McConnell R - KY Min. Leader



Sen. Schumer D - NY Maj. Leader



Rep. McCarthy R - CA 20 Speaker



Sen. Thune R - SD Min. Whip



Sen. Durbin D - IL Maj. Whip



Rep. Scalise R - LA 1 Maj. Leader



Rep. Jeffries D - NY 8 Min. Leader



Rep. Emmer R – MN 6 Maj. Whip



Rep. Clark D - MA 5 Min. Whip

House Committee Leadership

WAYS & MEANS



REP. SMITH Mo. 8 Chair

FINANCIAL SERVICES



REP. MCHENRY R-N.C. 10 Chair

APPROPRIATIONS



REP. GRANGER R-Texas 12 Chair

THUD Subcommittee



REP. COLE R-Okla. 4 Chair



REP. NEAL D-Mass. 1 Ranking Member



REP. WATERS
D-Calif. 43
D-Ranking Member

www.novoco.com



D-Conn. 3
Ranking Member



D-III. 5
Ranking Member



House Ways and Means Committee Roster



HR 2573 Cosponsors

DEMOCRATS

Richard Neal, Ranking Member, MA

Lloyd Doggett, TX

Mike Thompson, CA

John Larson, CT

Earl Blumenauer, OR

Bill Pascrell, NJ

Danny Davis, IL

Linda Sánchez, CA

Brian Higgins, NY

Terri Sewell, AL

Suzan DelBene, WA

Judy Chu, CA

Gwen Moore, WI

★ Dan Kildee, MI

★ Don Beyer, VA

Dwight Evans, PA

Brad Schneider, IL

Jimmy Panetta, CA

REPUBLICANS

Jason Smith, Chair, MO

Vern Buchanan, FL
Adrian Smith, NE

Mike Kelly, PA

David Schweikert, AZ

★ Darin LaHood, IL

Brad Wenstrup, OH

Jodey Arrington, TX

Drew Ferguson, GA

Ron Estes, KS

Lloyd Smucker, PA

Kevin Hern, OK

Carol Miller, WV

Greg Murphy, NC

To David Kustoff, TN

★Mike Carey, OH

★Randy Feenstra, IA

Michelle Fischbach, MN

★Brian Fitzpatrick, PA
Nicole Malliotakis, NY

★Blake Moore, UT Michelle Steel, CA Greg Steube, FL

★Claudia Tenney, NY
Beth Van Duyne, TX

2 | | L

Senate Committee Leadership

FINANCE



SEN. WYDEN D-Ore. Chair



SEN. CRAPO R-Idaho Ranking Member

BANKING



SEN. BROWN
D-Ohio
Chair



SEN. SCOTT R-S.C. Ranking Member

APPROPRIATIONS



SEN. MURRAY D-Wash. Chair



SEN. COLLINS
R-Maine
Ranking Member

THUD Subcommittee



SEN. SCHATZ
D-Hawaii
Chair



R-MS
Ranking Member

Senate Finance Committee Roster



Reelected in 2022

Up for election in 2024

DEMOCRATS







Bob Menendez, NJ



Ben Cardin, MD

Sherrod Brown, OH

Michael Bennet, CO

Bob Casey, PA

Sheldon Whitehouse, RI

Maggie Hassan, NH

Mark Warner, VA

Catherine Cortez Masto, NV

Elizabeth Warren, MA

REPUBLICANS

Mike Crapo, ID, Ranking Member

Chuck Grassley, IA

John Cornyn, TX

John Thune, SD

Tim Scott, SC

Bill Cassidy, LA

James Lankford, OK

Steve Daines, MT

Todd Young, IN

John Barrasso, WY

Ron Johnson, WI

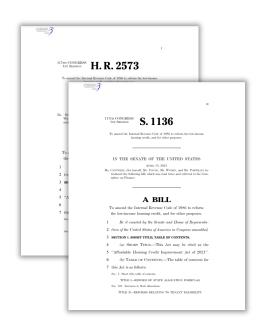
Thom Tillis, NC

Marsha Blackburn, TN

*Announced retirement

March 24, 2023 www.novoco.com

Affordable Housing Credit Improvement Act TO BE REINTRODUCED



2021 bill cosponsors:

S. 1136: 11R 33D | H.R. 2573: 71R 137D

Expected lead sponsors:



CANTWELL D-WA



LAHOOD R-IL



YOUNG R-IN



DELBENE D-WA



WYDEN D-OR



WENSTRUP R-OH



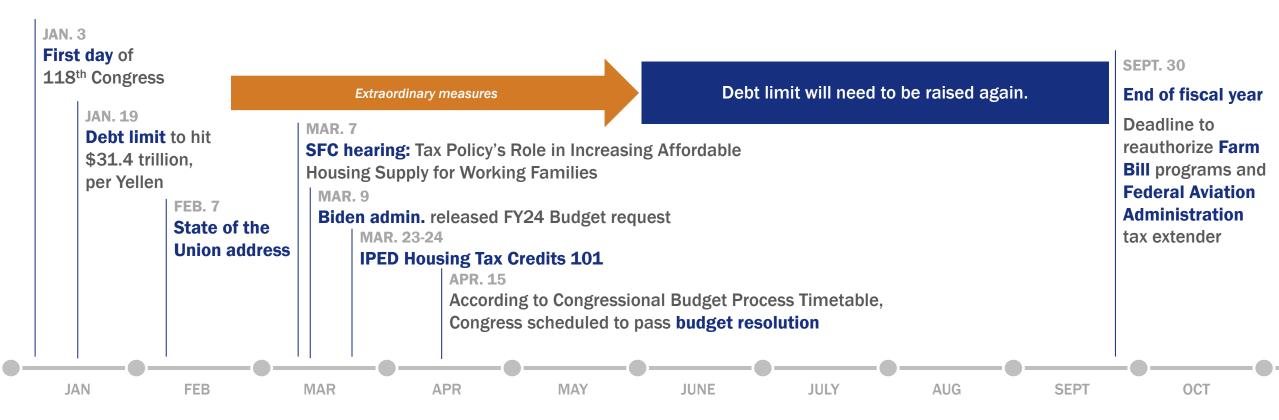
BLACKBURN R-TN



BEYER D-VA

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What to Expect in 2023



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Upcoming Expiring Provisions

12/31/2021

- 12.5% increase in State lowincome housing tax credit ceiling
- Refundability and enhancement of child and dependent care tax credit
- Add back depreciation and amortization to earnings before interest and taxes as basis to calculate 30% limit on interest cost deductions for businesses
- Business could expense R&E costs
 in the first year

12/31/2022

- Allowance of full deduction for business meals provided by a restaurant
- 50% rate for railroad track maintenance credit
- Temporary delay of designation of multiemployer plans as in endangered, critical or critical and declining status
- 100% bonus depreciation (with phasedown over 2023-25)

+ roughly two dozen expired on 12/31/2021

9/30/2023

 Airport and Airway Trust Fund excise taxes

12/31/2023

No provision expirations

Upcoming Expiring Provisions

12/31/2024

No provision expirations

12/31/2025

- Modification of TCJA individual income tax rates
- Increase in standard deduction of individuals
- Child tax credit
- New markets tax credit
- Employer credit for paid family and medical leave
- Work opportunity credit
- Increase in exemption amount and phaseout threshold of individual AMT

- Rate on modified taxable income and treatment of credits in the calculation of base erosion minimum tax amount
- Qualified business income deduction
- Empowerment zone tax incentives

+28 other expiring provisions on 12/31/2025

Regulatory Efforts

Average Income Test Implementation

www.novoco.com/blog | www.novoco.com/podcast



Final regulations released October 7, 2022
Two major concerns about proposed regulations:

- Did not allow for the income designation of a particular unit to change
- Novogradac LIHTC Working Group

 (and others) recommended Treasury allow units to float versus be fixed
 "Cliff effect" issue: risk that a property could fail the set-aside if they discovered, too late to correct, merely one unit in the entire project was over income

IRS Notice 2022-52

LIHTC regulatory relief

Part III - Administrative, Procedural, and Miscellaneous

Notice 2022-52

SECTION I. PURPOSE

This notice modifies and amplifies sections IV.C, IV.D, IV.F, and V.B of

Notice 2022-05, 2022-5 I.R.B. 457, by providing additional temporary relief from certain
requirements under § 42 of the Internal Revenue Code (Code) for qualified low-income
housing projects. The Internal Revenue Service and the Department of the Treasury
have received numerous inquiries related to unavoidable labor and supply-chain
disruptions delaying the construction, rehabilitation, and restoration of properties
throughout the United States. In view of the unique circumstances resulting from the
labor and supply-chain disruptions and their effect on the existing relief provided in
Notice 2022-05, it is appropriate to provide the additional temporary relief in this notice.

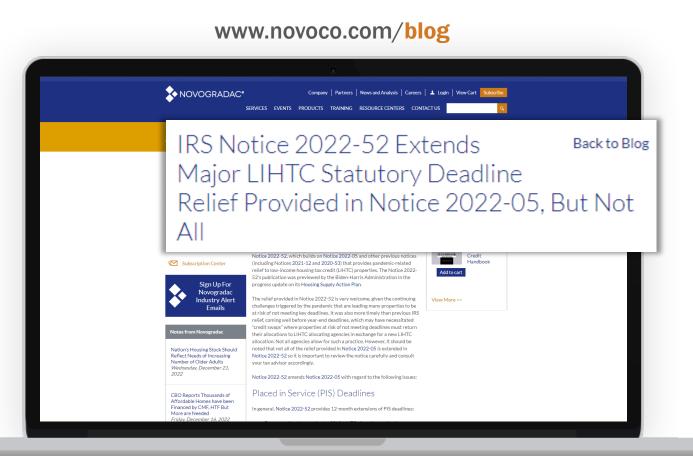
SECTION II. EXTENSION OF CERTAIN TEMPORARY RELIEF IN NOTICE 2022-05

.01 Extension of certain placed-in-service deadlines. This notice modifies and amplifies section IV.C of Notice 2022-05 by designating the four bullets under section IV.C of Notice 2022-05 as section IV.C.(1) through (4), revising section IV.C.(2) and (4), and adding new section IV.C.(5) to extend placed-in-service deadlines for projects receiving allocations in 2019, 2020, and 2021. As so modified and amplified, section IV.C of Notice 2022-05 now reads:

1

IRS Notice 2022-52

LIHTC REGULATORY RELIEF



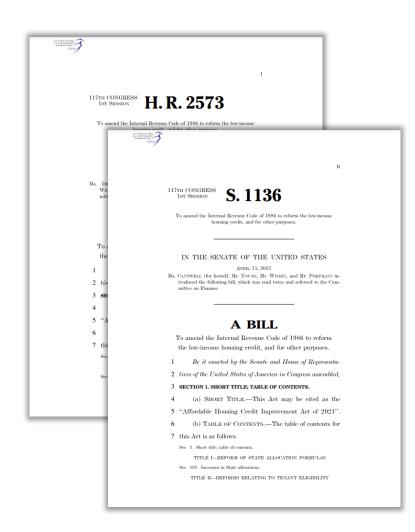
Four main issues addressed:

- 1. PIS Deadlines
 - In general, provides 12-month extensions of PIS deadlines
- 2. Casualty Loss Reasonable Restoration Period
 - Extends the deadline up to 24 months at the discretion of the LIHTC allocating agency
- 3. Noncompliance Correction Period
 - Extends the period for owners correcting noncompliance by up to 12 months
- 4. Physical Inspection Compliance Monitoring Waiver
 - Flexibility to extend waiver until Dec. 31, 2023

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Affordable Housing Credit Improvement Act

Regulatory Possibilities



- Clarify protections for Housing Credit residents covered by the Violence Against Women Act (Section 205)
- Clarify the ability to claim Housing Credits after casualty losses (Section 301)
- Include relocation expenses in rehabilitation expenditures (Section 303)
- Better restrict planned foreclosures (Section 310)



- More energy tax credits
- Transferrable tax credits
- Refundable tax credits
- Book minimum tax



Inflation and High Interest Rates



Supply & Demand Factors affecting

INVESTOR EQUITY PRICING



Global Minimum Tax?

Guidance released Feb. 2



FASB Changes, Exposure Draft Posted



Community Reinvestment Act OCC, FDIC and Fed aiming to finalize by second quarter of 2023



NOVOGRADAC®

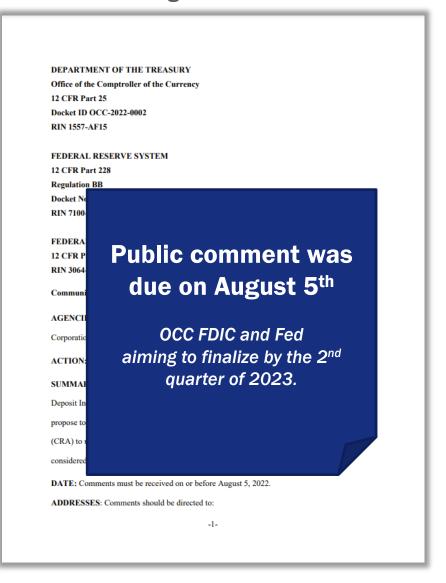
CRA Update

Community Reinvestment Act Regulations

OCC, Fed and FDIC issued a **joint notice of proposed rulemaking** to strengthen and modernize Community Reinvestment Act (CRA) regulations on **May 5, 2022**



Page 1 of 679



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Corporate Minimum "Book" Tax and Global Minimum Tax

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Inflation Reduction Act

15% CORPORATE MINIMUM BOOK TAX



- 15% Corp. Min. Tax on "Book" Income (mainly based on corp. financials)
- Reduced by business credits (e.g., LIHTC)
- Book income adjusted for accelerated tax depreciation
- Need guidance from Treasury regarding treatment of partnership flow-through book losses when using proportional amortization method

Inflation Reduction Act

15% CORPORATE MINIMUM BOOK TAX



Part III - Administrative, Procedural, and Miscellaneous Initial Guidance Regarding the Application of the Corporate Alternative Minimum Tax under Sections 55, 56A, and 59 of the Internal Revenue Code Notice 2023-7 SECTION 1. OVERVIEW This notice announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to issue proposed regulations (forthcoming proposed regulations) addressing the application of the new corporate alternative minimum tax (CAMT), as added to the Internal Revenue Code (Code)1 by the enactment of § 10101 of Public Law 117-169, 136 Stat. 1818, 1818-1828 (August 16, 2022), commonly referred to as the Inflation Reduction Act of 2022 (IRA). Sections 3 through 7 of this notice provide interim guidance regarding certain time-sensitive issues intended to be addressed by the forthcoming proposed regulations. Taxpayers may rely on the guidance provided in sections 3 through 7 of this notice until the issuance of the forthcoming proposed regulations. In addition, the Treasury Department and the IRS intend to issue additional interim guidance to address other CAMT issues prior to the issuance of the forthcoming proposed regulations. Such additional interim guidance is expected to address, among other issues, certain issues related to the treatment under the 1 Unless otherwise specified, all "section" or "\$" references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

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COMPARING

Corporate Minimum "Book" Tax with Global Minimum Tax

Corporate Minimum "Book" Tax

- Threshold for corporate minimum "book" tax is at least \$1 billion in average profit over the past 3 years
- Explicitly adjusts book income for accelerated tax depreciation and allows general business credits to reduce minimum tax

Global Minimum Tax

- Threshold for global minimum tax is 750 million euros (roughly \$750 million) in average global revenues over the past 4 years
- Nonrefundable tax credits generally do not reduce global minimum tax
- Equity method of accounting appears to allow for tax credit equity investments to be excluded from calculation

OECD/G20 Base Erosion and Profit Shifting Project

Tax Challenges Arising from the
Digitalisation of the Economy –
Administrative Guidance on the Global AntiBase Erosion Model Rules (Pillar Two)

Inclusive Framework on BEPS

Global Minimum Tax

Latest guidance released Feb. 2, 2023



Pillar Two and Tax Credit Equity Investments

Full text available at www.novoco.com/effect-gmt



PILLAR TWO AND TAX CREDIT EOUITY **INVESTMENTS**

OVERVIEW

As the world economy has become more globalized and digitalized, there is a widespread perception that many companies have shifted their income into countries with lower tax rates. In response, the Organisation for Economic Co-operation and Development (OECD) and G-20 created the OECD/G-20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS) in 2015. On Oct. 8, 2021, more than 135 Inclusive Framework countries "joined a two-pillar solution to reform the international taxation rules and ensure that multinational enterprises pay a fair share of tax wherever they operate and generate profits in today's digitalized and globalized world economy." The purpose of the second of the two pillars (Pillar Two) is to ensure that companies are taxed in each jurisdiction in which they do business at an effective tax rate of at least 15%.

Pillar Two would establish the Global Anti-Base Erosion (GloBE) rules. The GloBE rules have three main components: the Income Inclusion Rule (IIR), the Qualified Domestic Minimum Top-up Tax (QDMTT), and the Undertaxed Payment Rule (UTPR). In concert, these three components are intended to ensure that large Multinational Enterprises (MNEs) have a minimum effective tax rate of 15% in each jurisdiction in which they operate. Large MNEs are organizations with annual group revenue exceeding €750 million (currently about \$780 million) in at least two of the four fiscal years immediately preceding the tested fiscal year.2 An MNE's effective tax rate in a given jurisdiction is determined by dividing tax expense (the numerator) by pre-tax income (the denominator). More specifically, the effective tax rate is "equal to the sum of the Adjusted Covered Taxes of each Constituent Entity located in the jurisdiction divided by the Net GloBE Income of the jurisdiction for the Fiscal Year, 23 Both the numerator and the denominator are based on a standardized financial

1 OECD (2021), Tax Challenges Arising from the Digitalisation of the Economy - Global Anti-Base Erosion Model Rules (Pillar Two):Inclusive Framework on BEPS, OECD, Paris, https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisationof-theeconomy-global-anti-base-erosion-model-rules-pillar-two.htm, p. 3.

2 OECD (2021), Model Rules, Article 1.1.1, p. 8. Certain Large MNEs are excluded under Article 1.5.1. Excluded MNEs are (a) a Governmental Entity;

(b) an International Organisation

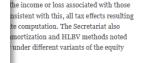
(c) a Non-profit Organisation;

(e) an Investment Fund that is an Ultimate Parent Entity; or

(f) Real Estate Investment Vehicle that is an Ultimate Parent Entity.

3 OECD (2021), Model Rules, Article 5.1.1, p. 28.

Novogradac Overview of Pillar Two and Tax Credit Equity Investments Draft as of June 8, 2022



bove, that when the equity method applies

n, Assistant Secretary for Tax Policy Lily

f general business credits under the cent OECD public statements. We are s is preserved under the OECD rules, and we additional clarifications. For example, we ries' UTPRs from some taxpayers that invest , certain renewable energy credits, and the ents are structured and accounted for, the tments typically will be excluded from the not be impacted by UTPRs."16

at Pillar Two – including the IIR and UTPR countries, additional guidance from the

ble to investments accounted for under the ffective tax rate,

proportional amortization and HLBV, and

olicy Lily Batchelder for the D.C. Bar Association," ments were echoed in ones she made on e she stated that LIHTC renewable energy tax nvestment structure and accounting treatment



...additional guidance from the OECD is needed to confirm this analysis. Specifically, that guidance should confirm that:

- profits, losses, tax expense, tax benefit and tax credits attributable to investments accounted for under the equity method are excluded from the calculation of an MNF's effective tax rate.
- the equity method encompasses all its variations, including the proportional amortization and HLBV, and
- the results just noted are not changed by the Joint Venture rules as long as either (a) the Joint Venture has income and the UPE owner of the Joint Venture are subject to tax at a nominal rate of at least 15% tax, without regard to any tax credits or attributes available to the UPE, or (b) the Joint Venture has a loss and the UPE owner of the Joint Venture is entitled to use that loss.

NOVOGRADAC*

Novogradac Overview of Pillar Two and Tax Credit Equity Investments | Draft as of June 8, 2022



Financial Accounting Standards Board (FASB) Changes



Proposed Accounting Standards Update

Issued: August 22, 2022 Comments Due: October 6, 2022

Investments—Equity Method and Joint Ventures (Topic 323)

Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method

a consensus of the Emerging Issues Task Force

The Board issued this Exposure Draft to solicit public comment on proposed changes to Topic 323 of the FASB Accounting Standards Codification®. Individuals can submit comments in one of three ways: using the electronic feedback form on the FASB website, emailing comments to director@fasb.org, or sending a letter to "Technical Director, File Reference No. 2022-004, FASB, 401 Merritt 7, PO Box 5116," Norwalk, CT 06856-5116."

Financial Accounting Standards Board

FASB Exposure Draft

Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method

- August 22: Exposure draft was released
- October 6: 45-day comment period ends
- December 1: EITF Meeting comment letter feedback deliberations and final consensus
- January: FASB Board ratifies accounting standards update
- Late-March/early-April 2023: Final accounting standards update issued

2023 and 2024 Income Limits

www.novoco.com

2023 Income Limits

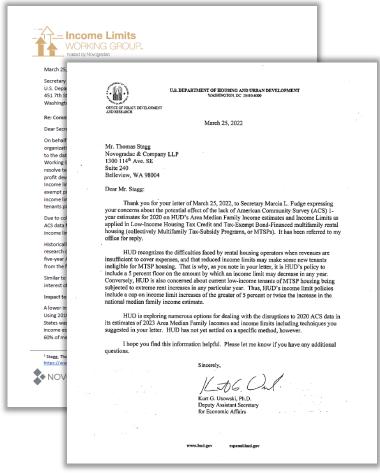


www.novoco.com/podcast



- Census Bureau announced it will not release a one-year American Community Survey (ACS) for 2020
- HUD will use the 2021 ACS in place of the 2020 ACS
 - Income limits are targeted to be released on May 15 instead of April 1
- Using CPI data released by the Congressional Budget Office February 15th,
 Novogradac estimates the 2023 national median income would rise to \$96,200-a

 6.9% increase over the 2022 figure; HUD has historically used CBO's CPI to determine income limits for LIHTC properties
- Not all areas will have increases



2024 Income Limits

www.novoco.com/podcast

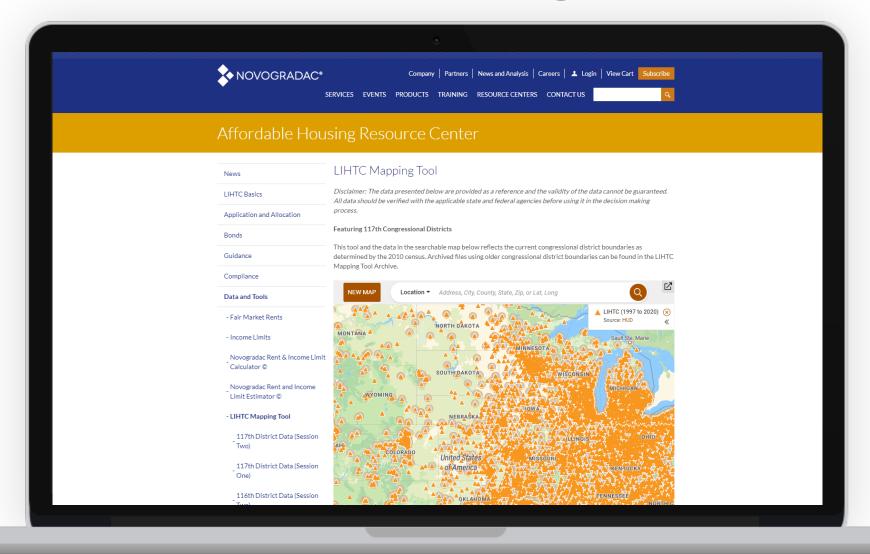


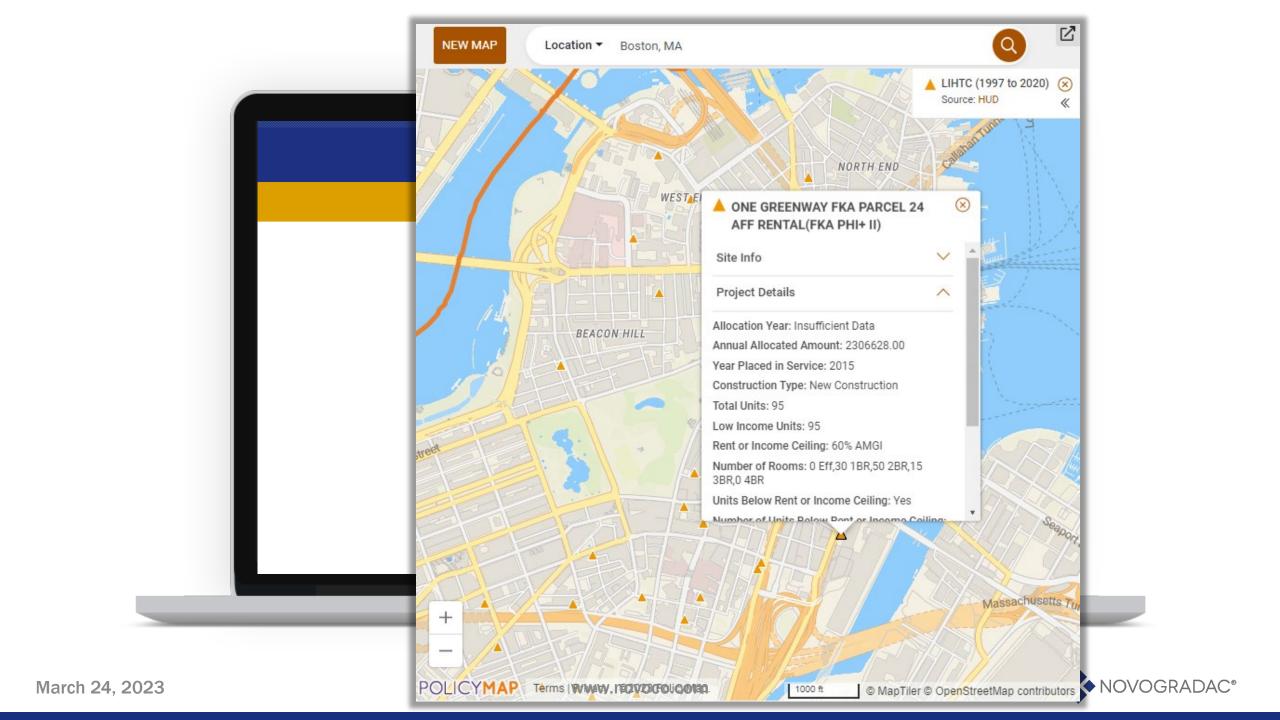


- Awaiting guidance from HUD on if they will use the 2021 ACS or 2022 ACS
 - HUD is waiting to see how difficult using 2021
 ACS for 2023 is and to hear back from the various uses of their data
 - HUD has used the same ACS two in a row before (2011-2012)
- If HUD uses 2021 ACS for 2024 Most areas will have an increase equal to the change in CPI
 - Areas that are subject to HUD adjustments would look different
- 2022 ACS will not be available for analysis until Mid-September

Advocacy

www.taxcredithousing.com



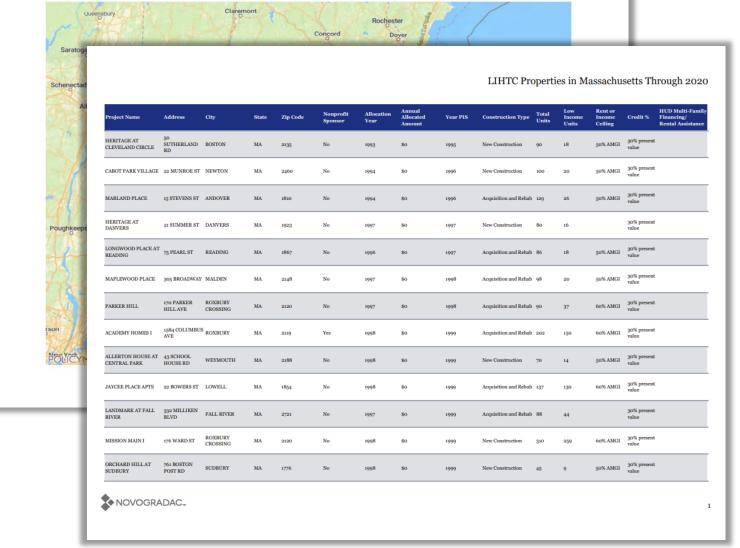


Reports of LIHTC Properties by State and Congressional District

www.taxcredithousing.com

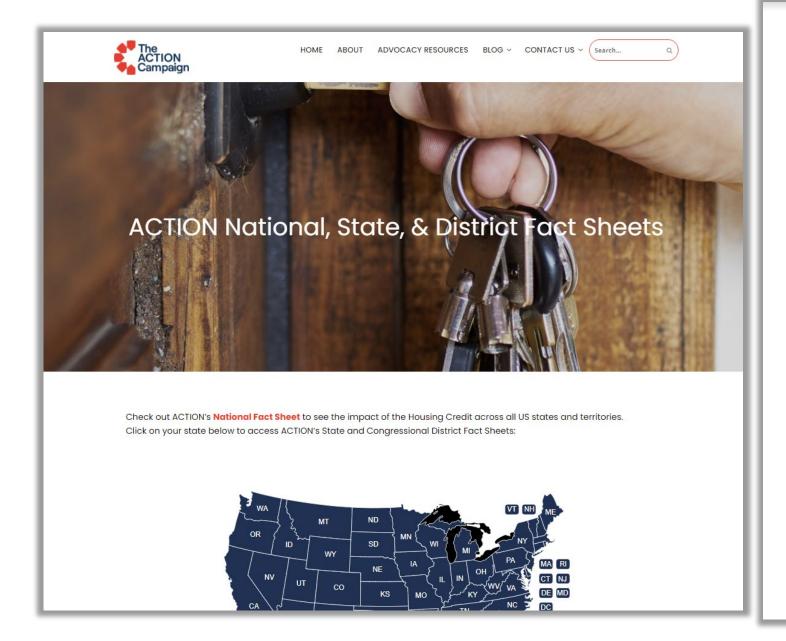


LIHTC Properties in Massachusetts through 2020



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March 24, 2023



Low-Income Housing Tax Credit

Impact In Massachusetts



The ACTION Campaign represents over 2,400 organizations and businesses working to address our nation's severe shortage of affordable rental housing by supporting the Low-Income Housing Tax Credit.

The Housing Credit's Benefits For Low-Income Families And The Economy, 1986 - 2021



70,076

homes developed or preserved in MA



150,905

low-income households served



103,569 jobs supported for one year



\$4.032 billion in tax revenue generated



\$11.671 billion

in wages & business income generated

The Need for Affordable Housing

Though the Housing Credit has had a tremendous impact across the country, much more affordable housing is still needed to meet the growing demand.



273,182 renter households in

Massachusetts pay more than half of their monthly income on rent, leaving too little for other expenses like health care, transportation, and nutritious food



In order to afford a one-bedroom apartment, a minimum wage worker in Massachusetts has to work 87 hours per week The Low-Income Housing Tax Credit (Housing Credit) is a proven solution to help address the affordable housing crisis.

The Housing Credit is our nation's most successful tool for encouraging private investment in affordable rental housing.

It has financed over 3.7 million homes for low-income families and individuals nationwide since 1986.

The ACTION Campaign calls on Congress to:

- Expand the Housing Credit to address the severe shortage of affordable housing.
- Strengthen the Housing Credit to maximize impact in communities facing the greatest need.
- Enhance multifamily Housing Bonds, which provide critical financing to about 50 percent of Housing Credit homes.

Addressing Our Nation's Severe Shortage
Of Affordable Housing



Up to 55,840 additional affordable homes could be financed in MA by the primary unit financing provisions in the Affordable Housing Credit Improvement Act.

Visit rentalhousing action.org for data sources and methodologies.

Updated December 2022

rentalhousingaction.org

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March 24, 2023 www.novoco.com

Washington Update

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