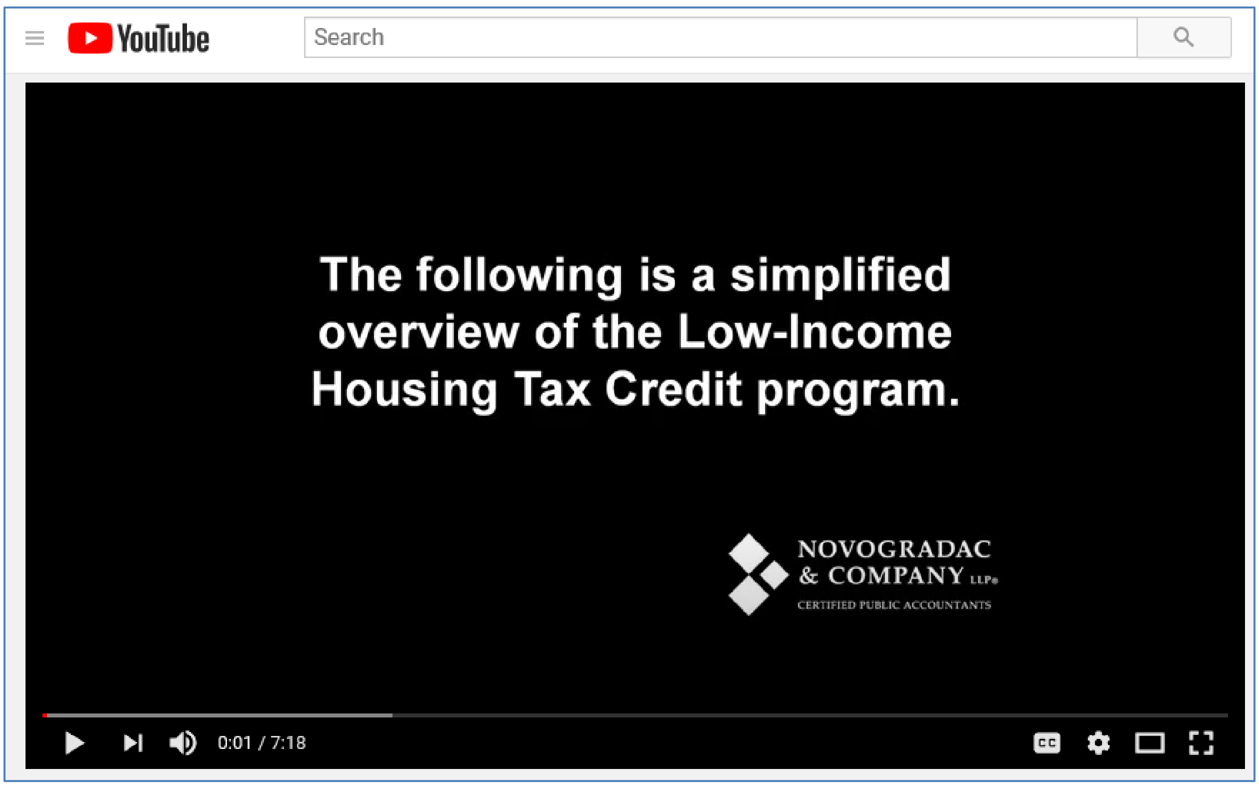
Housing Community Recovery Task Force

Work Plan Task 1 - Increase the Supply of Affordable Housing

Low Income Housing Tax Credits (LIHTC)

This YouTube video provides a brief overview of the low-income housing tax credit (LIHTC), and how LIHTCs helps provide quality, affordable rental housing for communities, and tax relief for investors.

Click here to watch the video www.youtube.com/watch?v=XxwpoLztx70 , or type the website address into your browser.



Q. What is the low-income housing credit and how does it work?

A. The credit provides an incentive for investment in low-income communities. The US Treasury competitively allocates tax credit authority to intermediaries that select investment projects. Investors receive a tax credit against their federal income tax.

The Low-Income Housing Tax Credit (LIHTC) subsidizes the acquisition, construction, and rehabilitation of affordable rental housing for low- and moderate-income tenants. The LIHTC was enacted as part of the 1986 Tax Reform Act and has been modified numerous times. Since the mid-1990s, the LIHTC program has supported the construction or rehabilitation of about 110,000 affordable rental units each year (though there was a steep drop-off after the Great Recession of 2008–09)—about 2 million units in all since its inception.

The federal government issues tax credits to state and territorial governments. State housing agencies then award the credits to private developers of affordable rental housing projects through a competitive process. Developers generally sell the credits to private investors to obtain funding. Once the housing project is placed in service (essentially, made available to tenants), investors can claim the LIHTC over a 10-year period.

QUALIFYING FOR THE CREDIT

Many types of rental properties are LIHTC eligible, including apartment buildings, single-family dwellings, townhouses, and duplexes.

Owners or developers of projects receiving the LIHTC agree to meet an income test for tenants and a gross rent test. There are three ways to meet the income test:

1. At least 20 percent of the project's units are occupied by tenants with an income of 50 percent or less of area median income adjusted for family size (AMI).
2. At least 40 percent of the units are occupied by tenants with an income of 60 percent or less of AMI.
3. At least 40 percent of the units are occupied by tenants with income averaging no more than 60 percent of AMI, and no units are occupied by tenants with income greater than 80 percent of AMI.

The gross rent test requires that rents do not exceed 30 percent of either 50 or 60 percent of AMI, depending upon the share of tax credit rental units in the project. All LIHTC projects must comply with the income and rent tests for 15 years or credits are recaptured. In addition, an extended compliance period (30 years in total) is generally imposed.

Key Elements of the U.S. Tax System

What is the low-income housing credit and how does it work?

COMPUTING THE CREDIT

The credit claimed by a taxpayer equals a credit percentage multiplied by the project's qualified basis. The percentage is larger for new construction or substantial rehabilitation (roughly 9 percent but specified in the law as a 70 percent present value credit) than for properties acquired for rehabilitation or for projects funded using tax-exempt bonds (roughly 4 percent but specified as a 30 percent present value credit). The qualified basis equals the fraction of the cost of the housing project rented to tenants meeting the income tests. For many LIHTC projects, the owners or developers aim to rent 100 percent of the units to qualifying tenants. State housing finance agencies may allocate enhanced tax credits to qualified projects in areas where the need is greatest for affordable rental housing.

The LIHTC statute originally specified that the IRS would periodically reset the specified credit percentages to maintain the present value of the 10-year stream of tax credits at 70 percent or 30 percent of the qualified basis. However, since 2008, Congress has specified that the minimum credit rate for the 70 percent present value credit should be at least 9 percent, regardless of prevailing interest rates. Thus, in a low interest rate environment, the present value of the credits claimed over 10 years will exceed 70 percent of the qualified basis.

ALLOCATING THE CREDIT

Congress sets a limit on the amount of LIHTC that can be allocated in any year. For 2018, each state was originally allocated $2.765 million or $2.40 per capita, whichever was larger. But Congress provided a 12.5 percent boost through 2021, so these figures were increased to $3.1 million and $2.70, respectively. Both dollar amounts are adjusted for inflation.

This structure guarantees that states with low populations get a somewhat larger award when calculated on a per capita basis. States then allocate these credits (generally through state housing finance agencies) to developers, based on state-created qualified allocation plans. These plans are required to give priority to projects that serve very low income households and that provide affordable housing for longer time periods. Projects financed by private activity tax-exempt bonds do not need to obtain a separate credit allocation from the state housing finance authority. The state, however, must approve the use of these bonds, which checks developers' ability to access 30 percent present value LIHTCs.

Developers generally sell the tax credits to investors, who may be better able to use the tax credits and other tax benefits of the housing project (e.g., depreciation, interest paid, net operating losses). Investors also contribute equity, often through a syndication or a partnership. The investors or limited partners usually play a passive role, receiving the tax benefits associated with the project but not participating in day-to-day management and oversight.

Most investors in LIHTC projects are corporations that have sufficient income tax liability to fully use nonrefundable tax credits. Financial institutions traditionally have been major investors, because they have substantial income tax liabilities, have a long planning horizon, and often receive Community Reinvestment Act credit from their regulators for such investments. Taxpaying investors cannot claim credits until the project is placed into service.

What is the low-income housing credit and how does it work?

CALCULATING COSTS AND BENEFITS

The LIHTC is estimated to cost around $9 billion per year. It is by far the largest federal program encouraging the creation of affordable rental housing for low-income households. Supporters see it as an effective program that has substantially increased the affordable housing stock for more than 30 years. LIHTC addresses a major market failure—the lack of quality affordable housing in low-income communities. Efficiencies arise from harnessing private-sector business incentives to develop, manage, and maintain affordable housing for lower-income tenants.

Critics of the LIHTC argue that the federal subsidy per unit of new construction is higher than it needs to be because of the various intermediaries involved in its financing—organizers, syndicators, general partners, managers, and investors—each of whom are compensated for their efforts. As a result, a significant part of the federal tax subsidy does not go directly into the creation of new rental housing stock. Critics also identify the complexity of the statute and regulations as another potential shortcoming. Another downside is that some state housing finance authorities tend to approve LIHTC projects in ways that concentrate low-income communities where they have historically been segregated and where economic opportunities may be limited. Finally, while the LIHTC may help construct new affordable housing, maintaining that affordability is challenging once the required compliance periods are over.

Further Reading

Joint Committee on Taxation. 2017. "Present Law and Data Relating to Tax Incentives for Rental Housing." JCX-40-17. Washington, DC: Joint Committee on Taxation.

Keightley, Mark P. 2018. "An Introduction to the Low-Income Housing Tax Credit." RS22389. Washington DC: Congressional Research Service.

Scally, Corianne Payton, Amanda Gold, and Nicole DuBois, 2018. "The Low-Income Housing Tax Credit: How It Works and Who It Serves." Washington, DC: Urban Institute.

Housing Task Force

Follow-Up from the May 14, 2020
Task Force Meeting

1. **Question: Provide a copy of the state statute authorizing the issuance of housing.**

   North Carolina General Statute Section 159-48(d)(7) reads as follows:

   "Each city may borrow money and issue bonds under this Article in evidence thereof for the purpose of paying any capital costs of . . . Providing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation (i) construction or acquisition of projects to be owned by a city, redevelopment commission or housing authority, and (ii) loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, moderate income, or low and moderate income. A housing project may provide housing for persons of other than low or moderate income, as long as at least twenty percent (20%) of the units in the project are set aside for housing for the exclusive use of persons of low income. No rent subsidy shall be paid from bond proceeds."

   The full text of NCGS 159-48 can be found online at
   https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/BySection/Chapter_159/GS_159-48.pdf

2. **Question: Provide the language from the 2018 housing bond referendum.**

   The language from the 2018 housing bond referendum reads as follows:

   "SHALL the order authorizing $50,000,000 of bonds plus interest to pay the capital costs of housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including construction of infrastructure improvements related thereto and the acquisition of land and rights-of-way required therefore, and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?"

3. **Question: How many affordable housing units are in the pipeline, and what is their anticipated delivery date?**

   There are 2,060 affordable housing units in the pipeline to be delivered in the Charlotte housing market. These units are at various stages of completion, and will be delivered over the next 12 to 36 months.

May 21, 2020 Guest Speakers

Laura Belcher
President & CEO, Habitat for Humanity of the Charlotte Region
Laura Belcher joined Habitat for Humanity of Charlotte in 2014. The organization's mission is to remove barriers to affordable housing by bringing people together to build homes, communities and hope. During her tenure, Laura has overseen a 40% growth in production (serving over 220 families annually), led the effort in the creation and implementation of the 2016-2020 strategic plan, and in February of this year, managed the merger between Habitat Charlotte and Our Towns Habitat, creating Habitat for Humanity of the Charlotte Region. Over the last two years, she has been instrumental in the affiliate's offering more diverse housing solutions and an expansion in financial literacy offerings. In October the affiliate celebrated partnering with its 2000^{th} family – through new home construction, existing home rehabilitation and critical home repairs.

Laura has served on numerous committees of Habitat for Humanity International (HFHI); she currently co-chairs the Collaborative Operating Model Executive Task Force and was elected to a 3-year term on the HFHI US Council. She spent the first 20 years of her career in corporate roles with Arthur Andersen, Wachovia Securities and Transamerica. Laura is a CPA, a graduate of the College of William and Mary, and spent 9 years in nonprofit work as CFO/COO of the Arts & Sciences Council prior to joining Habitat. She attributes her passion for Habitat to her church where she started volunteering and building houses over 20 years ago.

Pete Kelly
Co-founder, Equitable Communities CLT
Peter Kelly is co-founder of Equitable Communities CLT, a fact-based advocacy organization founded on the belief that informed conversation leads to better decision making. We focus on broadening public understanding of issues surrounding Charlotte's Affordable Housing Crisis and issues surrounding economic disparities such as wages, education and wealth. Equitable Communities CLT educates and empowers community residents and leaders to effectively advocate for realistic and measurable solutions. Pete is a Retired Banking Executive with over 25-year Financial Services Leader with experience in strategy, enterprise risk assessment, finance and technology/business strategy alignment. Since retirement Peter has dedicated his time as an advocate for Affordable Housing and Social Justice. The goal to leverage his corporate skills to improve the effectiveness of local nonprofits and civic efforts in assisting those less fortunate.

Mike O'Sullivan
OneMECK
Mike O'Sullivan is a retired IT executive who has been an active affordable housing advocate in Charlotte for several years. He believes that housing is a basic human right, and that to build a just and equitable community we must ensure that affordable housing is available to families at all levels of income. He currently serves in a leadership role on several committees:

- Chair of the OneMECK Affordable Housing Committee
- Chair of the Homeowner Selection Committee of Habitat for Humanity of the Charlotte Region
- Co-Chair of the Homeless Services Network Advocacy Team