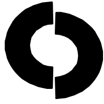

Comptroller of the Currency
Administrator of National Banks

Community Affairs
Department

Community Developments

Fact Sheet

Low Income Housing Tax Credits

What are Low Income Housing Tax Credits?

The Low-Income Housing Tax Credit (LIHTC) program is a vehicle by which the federal government funds the construction of new rental housing and the acquisition and rehabilitation of existing rental housing for low-income households. It is now the largest federal initiative to stimulate the production of affordable rental housing nationwide.

How does the program work?

Tax credits are awarded to developers of low-income housing, who, in turn, offer the credits to investors. Investors obtain a dollar-for-dollar reduction in their federal tax liability in exchange for providing equity to finance the development of qualified, affordable rental housing. That is, investors receive a tax write-off because they use the tax credits, claimed in equal installments over a ten-year period, to offset taxes otherwise owed on their tax returns. The money raised from the sale of tax credits is used as equity financing for a portion of the cost of developing low-income residential units. The incentive provided through the LIHTC is critical, because rental income and returns from investments in low-income housing are not always adequate to cover building, operating, and maintaining costs for these projects.

How are the tax credits allocated?

The Internal Revenue Service (IRS) and State Housing Finance Agencies jointly administer the LIHTC. Tax credits are allocated annually by the IRS to each state in an amount equal to $1.25 per state resident.

Both nonprofit agencies and for-profit developers may use the tax credits to develop low-income housing. Tax credits are available only to help cover the cost of units within qualified projects reserved specifically for rent to low-income households.

State role

Within general guidelines promulgated by the IRS, states are allowed to set specific allocation criteria for awarding tax credits. States are required to develop plans that identify and prioritize housing needs. These plans must also contain criteria that guide the selection of projects to be awarded tax credits. State plans must ensure that priority is given to low-income renter households. Based on the housing needs identified and selection criteria established by these state plans, State Housing Finance Agencies award tax credits to developers.

Eligibility requirements for tax LIHTCs

Projects developed with LIHTC-backed dollars are required to provide housing for low income families and individuals for 30 years. To qualify for tax credits, developers are required to rent 40% of their units, at a minimum, to tenants with incomes equal to or less than 60% of the area median, or 20% of units to residents earning 50% or less of the area median income. Rents charged by developers can be no more than a maximum of 30% of the income ceiling (i.e., maximum rents for LIHTC units are no more than 30% of either 50% or 60% of the area median income) mandated by the program. The developer is required by the IRS to maintain those rent restrictions for 15 years.

How can LIHTCs benefit a bank?

A national bank that invests in a LIHTC project (or a fund consisting of several projects) will receive a steady stream of tax credits during the initial 10 years of the 15-year tax compliance period. Such investments are typically structured as limited partnerships or limited-liability corporations. Thus a national bank, as a limited partner or limited-liability member, can generate additional returns with the pass through of depreciation and cash flow in these real estate investments.

An investment in a LIHTC is an eligible investment for national banks under the OCC's Part 24 authority and will receive positive CRA consideration (provided the investment serves the bank's assessment area or a broader regional area that includes the bank's assessment area). Banks may also receive CRA credit if they provide predevelopment financing or construction/permanent financing. National banks can invest in LIHTCs through individual projects or in funds. The OCC maintains a list of national and regional LIHTC funds in which national banks have invested on it's website at: http://www.occ.treas.gov/cdd/fundslist.htm

What are the risks to bank investors?

A bank should consider the compliance, credit, and liquidity risk of any investment it is considering purchasing.

LIHTCs credits are subject to recapture if the project fails to maintain affordability for a 15 year time period (some funds may indemnify investors for this risk).

In order to take full advantage of the credits under the LIHTC program the bank should have taxable income projected for the term of the investment.

For more information

- Learn more about how LIHTC's work at: http://www.occ.treas.gov/cdd/taxcreditsoh.pdf and http://www.occ.treas.gov/cdd/taxcredit101.pdf
- Learn more about community development opportunities generally at: www.occ.treas.gov/cdd/resource.htm
- Specific information on LITHC projects can be found at: www.huduser.org/datasets/lihtc.html
- OCC's District Community Affairs Officers whose contact information can be obtained at: www.occ.treas.gov/cdd/commfoc.htm