

New Market Tax Credits - Connecticut

In the 2014 session of the Connecticut General Assembly, the legislature enacted a provision (Public Act 14-98, Section 27) to permit Connecticut state bond funds to be claimed for federal New Market Tax Credits, subject to the provisions established by the U.S. Treasury Department and approval by the State of Connecticut Bond Commission and the Connecticut State Treasurer.

Program Overview

The New Market Tax Credit (NMTC) was approved by Congress in December 2000 and is aimed at stimulating private sector investment in economic development projects and businesses located in low-income areas. NMTCs are allocated annually on a competitive basis to federally certified community development entities (CDEs). To qualify as a CDE, an entity must be a domestic corporation or partnership that has a primary mission of serving, or providing capital for, low-income communities or low-income persons, maintains accountability to residents of low-income communities by having these residents on their governing or advisory boards, and been certified by the Community Development Financial Institutions (CDFI) Fund of the U.S. Treasury Department.

CDEs that receive an allocation of NMTC can then receive Qualified Equity Investments (QEI) from investors up to the amount of the allocation. CDEs then use the QEI proceeds to make a loan or equity investment in a project or businesses such as neighborhood retail establishments, commercial office space, childcare centers, healthcare facilities, charter schools and mixed use properties where residential units generate no more than 80% of the property's income. Such projects must be located in low-income communities where at least 20% of the residents are below the poverty level or where median family incomes do not exceed 80% of the area's medium income. The project must also include substantial rehabilitation as part of the funded budget. Projects ineligible for financial assistance include golf courses, massage parlors, hot tub facilities, racetracks and other gambling facilities, liquor stores and farms. Typical NMTC project funding levels are between \$8 million and \$50 million.

Owners or developers of projects who want a loan or equity contribution from a CDE must also meet certain program requirements, including (i) at least 50% of the business' gross income must be from the active conduct of a qualified business located in low income communities, (ii) at least 40% of the use of the property of the businesses are within low income communities, (iii) at least 40% of the services provided by the business' employees are performed in low income communities.

If you have any questions about the issues addressed here, or any other matters involving Business and Finance and/or Government Affairs issues, please feel free to contact:

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Tax Credit Incentive

The NMTC program uses investor funds to make qualified community development loans and equity investments. Investors access NMTCs by acquiring an ownership interest in a CDE. The NMTC equals 39% of the invested amount spread out over a seven (7) year period. Investors may claim 5% in each of the first three years and 6% in each of the remaining four years.

Connecticut - New Statutory Language

Section 3-20 of the general statutes was amended by adding subsection (z) as follows (Effective from passage):

“ (z) Notwithstanding any provision of the general statutes or any public act or special act, upon the request of any proposed recipient for a grant for a program or project to be financed by bonds issued pursuant to this section, and subject to the approval of the State Bond Commission and the Treasurer, such grant may be made to a qualified community development entity, or to a partnership, limited partnership, limited liability company or other business entity investing exclusively in a qualified community development entity, provided substantially all of the proceeds of such grant are made available to such proposed recipient to finance such project. For purposes of this subsection, “qualified community development entity” means an entity certified as a qualified community development entity pursuant to Section 45D(c)(1) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, that has received an allocation of new markets tax credits available for qualified low-income community investments in the state under Section 45D(f)(2) of said Internal Revenue Code.”

Program Status

On June 5, 2014, the US Treasury Department announced the latest round of NMTC awards. More than \$3.5 billion in credits were awarded to 87 CDEs in 32 states and Washington, D.C. To date, the CDFI Fund has made 836 allocations totaling \$40 billion in tax credit authority. In this round the average award was approximately \$40 for each successful CDE.

The NMTC program expired on December 31, 2011 but was retroactively renewed in the “American Taxpayer Relief Act of 2012” until January 2014. Bipartisan bills have been introduced in both the US House and Senate to permanently extend the NMTC program.

If you would like further information about the issues discussed in this client alert, please contact Senior Government Affairs Consultant David McQuade at 860.240.6141, dmcquade@murthalaw.com or Attorney Deirdre Robinson at 617.457.4052, drobison@murthalw.com.