



LEGAL ALERT

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Revised Text for the Build Back Better Legislation Includes LIHTC, NHTC, and Tribal NMTC

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Low-Income Housing Tax Credit

The BBBA extends the 9% LIHTC allocations to pegged amounts through 2025. The provision is effective for calendar years after December 31, 2021.

The provision provides a 50% increase in basis for LIHTC projects that designate at least 20% of their units for extremely low-income tenants. These projects may not use the average income test to qualify as a qualified low-income housing project.

It also changes the right of first refusal safe harbor into an option safe harbor. It clarifies that for existing agreements, the right to acquire the building includes the right to acquire the partnership interests relating to the building and the right to acquire assets held for the development, operation, or maintenance of the building.

Neighborhood Homes Tax Credit

A new tax credit to encourage the rehabilitation of deteriorated homes in distressed neighborhoods. States would receive Neighborhood Homes Investment Act (NHIA) tax credit allocations to be used to fill the gap between development costs and sales prices of up to 35% of eligible development costs in qualifying neighborhoods. Rehabilitated homes must be owner-occupied by owners below certain income limitations in order for investors to receive the credits.

New Markets Tax credit for Tribal Areas

The creation of \$175 million in New Markets Tax Credit allocation for calendar years 2022-2025 specifically for low-income communities in tribal areas and for projects that serve or employ tribe members.

Our team is closely monitoring these provisions as the Build Back Better Act advances through Congress. Please do not hesitate to contact us with any questions you may have regarding developments and how they may impact you.

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