

Oregon New Markets Tax Credits Law Update

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Oregon “New Markets Tax Credit” Program: Businesses in Low-Income Areas Should Act Quickly to Take Advantage of Current Financing Opportunities

The Oregon Low Income Community Jobs Initiative, commonly known as the Oregon New Markets Tax Credit (“NMTC”) program, is a financing tool that can provide an additional \$500,000 or more of net benefits to qualifying business projects in low-income areas. There is a relatively short time frame for deployment of the tax credit allocations, which means that the next few months should be an active time for tax credit investors, community development entities (“CDEs”) allocation holders and low-income community businesses. Business owners who are interested in pursuing NMTC financing opportunities should reach out to knowledgeable professionals as soon as possible. The complexity of NMTC transactions can be daunting, but this tool should be considered for projects that need additional capital to fill financing gaps.

Oregon’s NMTC program was established in 2011 and is supervised by Business Oregon. The Oregon program is based on the federal NMTC program, under which certified CDEs apply to a branch of the U.S. Treasury Department for authority to allocate federal tax credits to investors in qualifying projects. Any CDE that has received tax credit allocation authority from the Treasury Department and has a service area that includes Oregon is eligible to apply to Business Oregon for authority to allocate Oregon credits under the Oregon NMTC program.

Under the 2011 law, Business Oregon is permitted to grant CDEs the authority to allocate a total of \$78 million of Oregon tax credits to investors. As of February 13, 2013, approximately \$36 million of tax credit authority had been awarded, of which a little more than \$3 million was actually committed to particular low-income community business projects. This means that, as of mid-February, ample opportunities remained for businesses seeking funding for projects in low-income communities to take advantage of the Oregon NMTC program.

Investors earn tax credits by making “qualified equity investments” (“QEIs”) in CDEs. The credit allowed to the investor totals 39 percent of the QEI, taken over a five-year period that starts in the second tax year after the year in which the QEI is made. Once a CDE issues a QEI, the CDE has 12 months to use the proceeds to make investments (typically loans) in low-income community projects. Investments must stay in place for the full credit period.

Under the Oregon statute, only \$4 million of QEI proceeds can be used for a single project (generating \$1.56 million of total tax credits). For this reason, CDEs holding Oregon allocations

are actively looking for multiple Oregon projects in which to invest, creating unique opportunities for eligible businesses in need of capital.

To be eligible, a business must be located in a qualifying census tract, generally a tract where the poverty rate is at least 20 percent or the median family income does not exceed 80 percent of the statewide or metropolitan area median family income. Maps of qualifying census tracts can be [found here](#).

Many types of businesses are eligible for financing under the Oregon NMTC program. The program is particularly well suited to financing real estate improvements that are used in a business. Projects intended to improve the environment, reduce greenhouse gas emissions or produce goods with favorable environmental attributes may be eligible for a special set-aside under the program. Certain types of projects are ineligible, including residential rental, farms, golf courses and stores that sell alcoholic beverages for consumption off-premises.

An investor in an NMTC transaction typically earns a return in one of two ways. First, if the investor fully funds the QEI with its own equity, the investor's return typically comprises (1) interest income passed through to it by the CDE, and (2) the investor's tax credits. Alternatively, the investor may combine a lower cash investment with funds borrowed from other project participants (in a so-called "leveraged" transaction) in which case the tax credits will provide the bulk of the investor's financial return.

Low-income community projects benefit from NMTC transactions through reductions in borrowing costs that reflect the credits claimed by the investor. The net benefit will vary from project to project, depending on the profit demanded by the investor, the CDE fee and other transaction costs. Because the maximum NMTC from a single project is \$1.56 million, it is critical to keep transaction costs as low as possible. Accounting and legal advisors who are experienced with NMTC transactions can help streamline the process.

**For more information, please contact the New Markets Tax Credits Practice Group
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