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State Housing Council Seeks Guidance on Low-Income Housing Tax Credit, Tax-Exempt Bond Issues.

Garth Rieman of the National Council of State Housing Agencies has asked the IRS to include on its 2013-2014 priority guidance list (Notice 2013-22) guidance that the group says is critical to the effective state administration of the low-income housing tax credit and tax-exempt bond programs.

May 1, 2013

Internal Revenue Service

Attn: CC:PA:LPD:PR (Notice 2013-22)

Room 5203

P.O. Box 7604

Ben Franklin Station

Washington, D.C. 20044

RE: Notice 2013-22, Recommendations for 2012-2013 Guidance Plan

To Whom It May Concern:

Thank you for the opportunity to recommend for inclusion on the Department of Treasury/Internal Revenue Service (IRS) 2013-2014 Priority Guidance Plan subjects critical to effective state administration of the Low Income Housing Tax Credit (Housing Credit) and Tax Exempt Bond programs.

As the Washington representative of the agencies that administer the Housing Credit and Bond programs, including the MCC program, in all 50 states, the District of Columbia, New York City, Puerto Rico, and the U.S. Virgin Islands, the National Council of State Housing Agencies (NCSHA) appreciates the Treasury Department's and IRS' expert oversight of these programs, your continued cooperative attitude toward NCSHA and state housing agencies, and your timely provision of program guidance.

To support continued effective state administration of the Housing Credit and tax-exempt Housing Bonds, we urge you to issue the following guidance as quickly as possible.

(1) Guidance concerning the exception under § 42(d)(6) for any federally or State assisted building.

The Housing and Economic Recovery Act of 2008 exempts federally-or state-assisted buildings from the 10-year prior placement in service rule under § 42(d)(2)(B)(ii). The term federally-assisted building means any building which is substantially assisted, financed or operated under section 8 of the United States Housing Act of 1937, section 221(d)(4), or 236 of the National Housing Act,

Section 515 of the Housing Act of 1949 or any other housing program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture. The term state-assisted building means any building which is substantially assisted, financed, or operated under any State law similar in purposes to any laws relating to the definition of federally-assisted building. We urge the IRS to promptly issue guidance concerning how it defines "substantially" in this context, keeping in mind the need for as much flexibility as possible.

(2) Regulations concerning utility allowances under § 42(g)(2)(B)(ii) for sub-metered buildings.

NCSHA urges the IRS to issue final guidance concerning utility allowance calculations for Housing Credit developments that sub-meter. In prior comments on proposed utility allowance regulations, NCSHA has expressed its appreciation that regulations generally allow for more accurate utility allowance determinations, provide greater flexibility to make such determinations, and help HFAs promote energy efficiency in Housing Credit properties. We have also maintained that more accurate utility allowances help keep Housing Credit properties financially sustainable. We reiterate these principles and urge the IRS to ensure that any final guidance concerning utility allowances for sub-metered buildings does not impose any unnecessary administrative burdens or complexity on HFAs.

(3) Regulations concerning § 1.42-5 for compliance monitoring

Last year, the IRS issued proposed regulations concerning HFA Housing Credit monitoring procedures, in response to which NCSHA submitted comments suggesting a number of changes to the physical inspection and tenant file review requirements. To ensure that the Section 1.42-5 regulations continue to provide an efficient framework for compliance with Section 42 and provide the information necessary for IRS oversight, while allowing the greatest possible efficiency and effectiveness for the agencies charged with compliance monitoring, we urge IRS to issue final regulations as soon as possible, consistent with NCSHA's comments submitted in response to Notice 2012-18.

(4) Regulations concerning record retention requirements under § 103 for tax-exempt bonds.

NCSHA urges the IRS to issue final guidance concerning the length of time issuers of tax-exempt bonds must maintain loan files. The IRS last requested comments on this issue in Notice 2006-63 but has not since issued final regulations. The current rules, requiring issuers to maintain loan records for the life a bond issue, as well as any refundings of that bond issue plus an additional 6 years, regardless of when the loan is paid off, generate excessive compliance costs, particularly with regard to older loans which are not stored electronically.

(5) Public hearing requirements under § 147(f) for issuance of tax-exempt bonds.

On September 9, 2008, the IRS issued proposed regulations that would simplify the public approval requirements applicable to tax-exempt private activity bonds issued by state and local governments. The proposed regulations would permit the use of electronic notifications if a state's opening meeting laws so allow and cut in half the public notice requirement from 14 to 7 days. The proposed regulations are, however, applicable only after publication of final regulations and may not be applied until such time. NCSHA urges the IRS to issue final regulations consistent with the proposed changes referenced above, allowing HFAs to save time and money while bringing the federal rules in line with current technology and state laws.

NCSHA recommends that the IRS issue guidance on the above referenced items as soon as possible this year, as well as other guidance it believes necessary for the efficient implementation of the

Housing Bond and Credit programs.

Thank you for this opportunity to provide input on the Department of Treasury/Internal Revenue Service 2013-2014 Priority Guidance Plan.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Garth Rieman

Director, Housing Advocacy and

Strategic Initiatives

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