



Novogradac

# Journal of Tax Credits

News, Analysis and Commentary On Affordable Housing, Community Development and Renewable Energy Tax Credits

May 2019 • Volume X • Issue V

Published by Novogradac & Company LLP

## HISTORIC TAX CREDIT TOOL BOX

# New Markets Tax Credits and Historic Rehabilitation



JOHN M. TESS, HERITAGE CONSULTING GROUP

The New Markets Tax Credit (NMTC) program was created as part of the Community Renewal Tax Relief Act of 2000 passed during the Clinton administration with the intent to improve business development in economically distressed areas of the country.

The bill had three primary provisions: First, it authorized the creation of 40 “renewal communities,” which would receive special tax incentives for businesses to locate and hire residents that “had not experienced recent economic expansion.” Second, the bill expanded the “empowerment zone” program, which was created in 1993 to provide specific tax benefits to businesses located within. The third piece of the legislation was the creation of the NMTC.

The goal of the NMTC program was to spur revitalization efforts in low-income and impoverished communities by providing tax credit incentives to investors for equity investments in certified community development entities (CDE), which invested in low-income communities. The credit equaled 39 percent of the investment paid out (5 percent in each of the first three years, then 6

percent in the final four years, for 39 percent) over seven years. CDE service areas vary from nationwide to multistate to statewide and even local.

The concept behind the NMTC emerged in the late 1990s, when numerous foundations and think tanks worked to popularize the idea of “community capitalism.” The concept focused on creating a tax structure that logically encouraged for-profit businesses to locate and create jobs in distressed communities.

The actual NMTC structure is complicated. It requires certified CDEs to competitively apply for annual tax credit allocations based on qualified equity investments (QEI) from investors. For the investors to claim the credits, the CDE needed to use substantially all of the QEI from investors to

continued on page 2



continued from page 1

make “qualified low income community investments” in qualified active low-income community businesses in low-income communities. The challenge of navigating the process was mitigated by the potential for a cumulative 39 percent tax credit spread over a seven-year period.

Competition was typically keen. In 2016, which was a two-year cycle, 238 CDEs applied for allocations totaling \$17.6 billion. NMTC were awarded to 120

CDEs, totaling \$7 billion over a two-year period. Typically, the annual allocation is \$3.5 billion.

*Image: Courtesy of Triggs Photography LLC*

**The former Liggett & Myers cigarette factory in downtown Durham, N.C., was redeveloped into laboratory space and biotech incubators with financing from the new markets tax credit, federal historic tax credit and state mill credits.**

Credits are spread to major urban areas (60 percent), with a typical mix of 20 percent in minor urban areas and 20 percent in rural areas. Of the allocations, about 70 percent fund operating business while 30 percent fund real estate projects.

The impact of the program is impressive. Over 14 rounds, the federal government has allocated \$54 billion in tax credits. In turn, for every \$1 of tax credit, NMTC has generated \$8 of private investment. NMTCs have financed more than 5,400 businesses in low-income communities, creating nearly 750,000 jobs and have created 84.6 million square feet of manufacturing space, 62.7 million square feet of office space and 42.7 million square feet of retail space.

continued on page 3

continued from page 2

NMTCs can be used in the rehabilitation of historic buildings, combined with both the federal historic tax credit (HTC) and where applicable, state HTCs or other incentives. Combining the credits does however add significant complications to the organizational structure; it is essential to have a solid and experienced team of historic consultants, accountants and attorneys. This complication translates directly to noticeably higher project soft costs for administration and professional services. In practical terms, a smaller project becomes more challenging.

Unlike federal and most state HTCs, which are available by right and have no volume cap, the NMTC program is competitive and requires securing an allocation from a CDE that has received an award and has available credits. Finally, it is important to note that while the recapture period for the HTC is five years, the recapture period for NMTC is seven years; recapture for both is triggered by transferring the property to new ownership.

### Chesterfield (Durham, North Carolina)

NMTCs are used to fund job creation, business expansion and new construction. It also can be used to preserve and rehabilitate iconic historic buildings. One such property is the Chesterfield, a former Liggett & Myers cigarette factory in downtown Durham, N.C.

Formerly known as the “New Cigarette Factory,” the massive and visually prominent seven-story, 286,000 square foot building was built by Liggett & Myers



*Image: Courtesy of Triggs Photography LLC*

**The former Liggett & Myers cigarette factory in downtown Durham, N.C., was redeveloped into laboratory space and biotech incubators with financing from the new markets tax credit, federal historic tax credit and state mill credits.**

Tobacco Company in 1948. At the time, the Chesterfield was considered the most modern cigarette factory building in the world, featuring a steel frame structure with an open floor plate on a 22-foot square grid.

The building is located in Durham’s historic Bright Leaf District, on the west side of Durham, not far from Duke University, and was listed on the National Register in 1999. The district is comprised of 340 acres with 22 contributing buildings, all related to cigarette manufacturing. The Chesterfield Building itself was part of a larger Liggett & Myers’s complex that featured 13 buildings.

continued on page 4



continued from page 3

Initially, the Liggett Group (as it was then called) planned to retrofit the buildings for a mix of uses, though primarily residential—beginning with the five northernmost buildings. They eventually transferred the properties to Blue Devil Ventures, which developed West Village I (the northern five buildings) and then West Village II (the southern six buildings) as industrial-style apartments. Initially, Blue Devil planned to also adapt the Chesterfield Building for residential uses, but the development stalled during the real estate doldrums of the 2000s.

In 2013, the building—having sat vacant for 14 years—was acquired by Wexford Science & Technology. Wexford is a real estate company

exclusively focused on partnering with universities, academic medical centers and major research institutions to create vibrant, mixed-use communities built on a foundation of discovery, innovation and entrepreneurial activity. Their inspirational, collaborative innovation environments enable universities, entrepreneurs and companies to engage in a way that brings new thinking and new ideas to light. Wexford has developed or has under development major projects in more than a dozen cities across the country and recently completed six buildings in the Wake Forest Innovation Quarter in Winston-Salem, N.C.

Wexford jettisoned the residential concepts for the Chesterfield, focusing instead on creating state-of-the-art laboratory spaces, both as permanent laboratory space and as biotech incubators. The new project was

*Image: Courtesy of Triggs Photography LLC  
Formerly known as the "New Cigarette Factory," the massive and visually prominent seven-story, 286,000 square foot building was built by Liggett & Myers Tobacco Company in 1948.*

continued on page 5

continued from page 4

\$129.5 million with a dramatic central six-story atrium and gathering space core, complemented by common amenities such as meeting and conference center. Anchored by Duke University, tenants are typically full or multiple floors with limited ground floor street facing retail and limited basement parking. Particular to Duke, the Chesterfield Building provided the university with the opportunity to co-locate with private-sector entrepreneurs and provide space for its School of Medicine and School of Engineering researchers.

One of the particular challenges was inserting new window openings in the street-facing elevation. The original factory building, as a factory, had limited windows, insufficient for any modern use. Under the earlier residential concept, the National Park Service (NPS) had approved adding several bays of windows; though the project morphed into laboratory space, both the state historic preservation office (SHPO) and NPS allowed the new openings to remain in the design.

A second key challenge was maintaining the interior industrial character while also creating sterile laboratory spaces for scientific research. The project team worked closely with the SHPO and the NPS to find the right balance.

The NMTCs played a defining role in making this project pencil. Of the \$129.5 million, federal HTC were \$18.3 million, while the state mill credit was another \$17.9 million. NMTCs were \$11.8 million through Baltimore-based Urban Action Community Development, targeting both job creation and building revitalization. Another \$6 million came in the form of city of Durham incentives.

“The revitalization of this massive building was a complicated financial undertaking,” said Jonathan

Ades, senior director of finance for Wexford. “Our financial package included the federal historic tax credit, the North Carolina mill rehabilitation tax credit and an incentive agreement with both the city and county of Durham as well as new market tax credits and owner equity. There was a reason this building stood vacant for two decades and to make this work, we needed to use every tool in the urban revitalization financial toolbox. Without the NMTC, this project would not have happened.”

### Conclusion

The NMTC program was created to stimulate job creation and construction activity in economically distressed areas. Over its decade-and-a-half, the credits have a very successful history, leveraging \$54 billion in tax credits into an investment of more than \$400 billion into jobs and buildings. Though complicated to use, NMTCs are a vital piece of the historic rehabilitation toolbox, one that can be combined with federal and state historic incentives to have stunning results.

Nowhere is this more evident than in Liggett & Meyers’ Chesterfield Building. Vacant since the late 1990s, this massive structure was transformed by developer Wexford Science & Technology under the institutional sponsorship of Duke University into a state-of-the-art research facility. NMTCs were an integral component of the financial package and essential to its viability. ◆

---

*John M. Tess is president and founder of Heritage Consulting Group, a national firm that assists property owners seeking local, state and federal historic tax incentives for the rehabilitation of historic properties. Since 1982 Heritage Consulting Group has represented historic projects totaling more than \$3 billion in rehabilitation construction. He can be reached at 503-228-0272 or [jmtess@heritage-consulting.com](mailto:jmtess@heritage-consulting.com).*

---

*This article first appeared in the May 2019 issue of the Novogradac Journal of Tax Credits.*

continued on page 6

continued from page 5

© Novogradac 2019 - All Rights Reserved

*Notice pursuant to IRS regulations: Any U.S. federal tax advice contained in this article is not intended to be used, and cannot be used, by any taxpayer for the purpose of avoiding penalties under the Internal Revenue Code; nor is any such advice intended to be used to support the promotion or marketing of a transaction. Any advice expressed in this article is limited to the federal tax issues addressed in it. Additional issues may exist outside the limited scope of any advice provided – any such advice does not consider or provide a conclusion with respect to any additional issues. Taxpayers contemplating undertaking a transaction should seek advice based on their particular circumstances.*

*This editorial material is for informational purposes only and should not be construed otherwise. Advice and interpretation regarding property compliance or any other material covered in this article can only be obtained from your tax advisor. For further information visit [www.novoco.com](http://www.novoco.com).*

## EDITORIAL BOARD

PUBLISHER

**Michael J. Novogradac, CPA**

EDITORIAL DIRECTOR

**Alex Ruiz**

TECHNICAL EDITORS

**Thomas Boccia, CPA**  
**James R. Kroger, CPA**  
**Diana Letsinger, CPA**

**Matt Meeker, CPA**  
**John Sciarretti, CPA**  
**Stacey Stewart, CPA**

## COPY

SENIOR EDITOR

**Brad Stanhope**

MARKETING MANAGER

**Teresa Garcia**

COPY EDITOR

**Mark O'Meara**

CONTENT MANAGEMENT SPECIALIST

**Elizabeth Orfin**

CONTRIBUTING WRITERS

**George Barlow**  
**Kevin Goldsmith**  
**Dat Ksor**

**Stephanie Naquin**  
**Amanda Read**  
**John M. Tess**

## ART

CARTOGRAPHER

**David R. Grubman**

CREATIVE DIRECTOR

**Alexandra Louie**

SENIOR GRAPHIC DESIGNER

**James Matuszak**

## CONTACT

CORRESPONDENCE AND EDITORIAL SUBMISSIONS

**Alex Ruiz**  
**alex.ruiz@novoco.com**  
**415.356.8088**

ADVERTISING INQUIRIES

**Christianna Cohen**  
**christianna.cohen@novoco.com**  
**925.949.4216**

EDITORIAL MATERIAL IN THIS PUBLICATION IS FOR INFORMATIONAL PURPOSES ONLY AND SHOULD NOT BE CONSTRUED OTHERWISE.

ADVICE AND INTERPRETATION REGARDING THE LOW-INCOME HOUSING TAX CREDIT OR ANY OTHER MATERIAL COVERED IN THIS PUBLICATION CAN ONLY BE OBTAINED FROM YOUR TAX ADVISOR.

## ADVISORY BOARD

### OPPORTUNITY ZONES

**Glenn A. Graff**  
**Steven F. Mount**  
**Mary Tingerthal**

APPLEGATE & THORNE-THOMSEN  
 SQUIRE PATTON BOGGS  
 NATIONAL HOUSING TRUST BOARD

### LOW-INCOME HOUSING TAX CREDITS

**Bud Clarke**  
**Tom Dixon**  
**Rick Edson**  
**Richard Gerwitz**  
**Alisa Kennedy**  
**Rochelle Lento**  
**John Lisella**  
**Philip Melton**  
**Thomas Morton**  
**Rob Wasserman**

BOSTON FINANCIAL INVESTMENT MANAGEMENT  
 BOSTON CAPITAL  
 NFP AFFORDABLE HOUSING CORP.  
 CITI COMMUNITY CAPITAL  
 DENTONS  
 DYKEMA GOSSETT PLLC  
 U.S. BANCORP COMMUNITY DEV. CORP.  
 BELLWETHER ENTERPRISE  
 PILLSBURY WINTHROP SHAW PITTMAN LLP  
 U.S. BANCORP COMMUNITY DEV. CORP.

### PROPERTY COMPLIANCE

**Michael Kotin**  
**Kerry Menchin**  
**Michael Snowdon**  
**Gianna Richards**

KAY KAY REALTY  
 CONAM MANAGEMENT CORPORATION  
 HIGHRIDGE COSTA HOUSING PARTNERS  
 SOLARI ENTERPRISES INC.

### HOUSING AND URBAN DEVELOPMENT

**Flynnann Janisse**  
**Ray Landry**  
**Denise Muha**  
**Monica Sussman**

RAINBOW HOUSING  
 DAVIS-PENN MORTGAGE CO.  
 NATIONAL LEASED HOUSING ASSOCIATION  
 NIXON PEABODY LLP

### NEW MARKETS TAX CREDITS

**Frank Altman**  
**Merrill Hoopengardner**  
**Scott Lindquist**  
**Tracey Gunn Lowell**  
**Ruth Sparrow**  
**Elaine DiPietro**

COMMUNITY REINVESTMENT FUND  
 NATIONAL TRUST COMMUNITY INVESTMENT CORP.  
 DENTONS  
 U.S. BANCORP COMMUNITY DEV. CORP.  
 FUTURES UNLIMITED LAW PC  
 BLOOMING VENTURES LLC

### HISTORIC TAX CREDITS

**Jerry Breed**  
**John Leith-Tetrault**  
**Bill MacRostie**  
**John Tess**

MILES & STOCKBRIDGE  
 NATIONAL TRUST COMM. INVESTMENT CORP.  
 MACROSTIE HISTORIC ADVISORS LLC  
 HERITAGE CONSULTING GROUP

### RENEWABLE ENERGY TAX CREDITS

**Bill Bush**  
**Benjamin Cook**  
**Jim Howard**  
**Forrest Milder**

STEM INC.  
 NEXTPOWER CAPITAL  
 DUDLEY VENTURES  
 NIXON PEABODY LLP