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EXCERPT

Split Government Will Make Expansion of Community Development Incentives Difficult

*Community development tax credit
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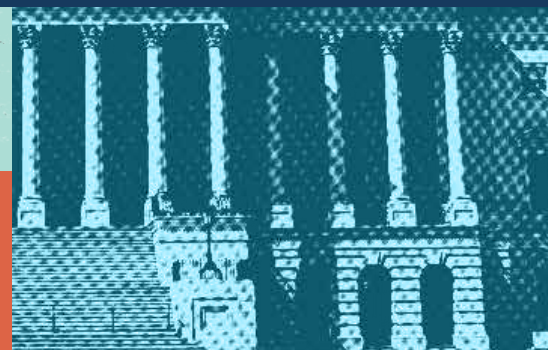
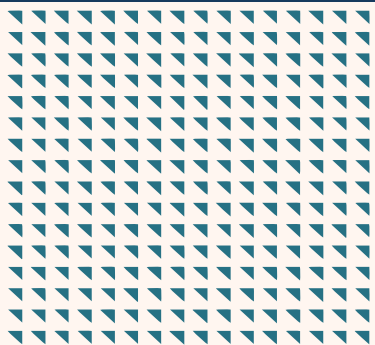
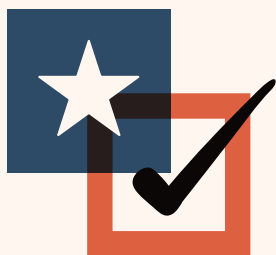
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HTC Toolbox Interview: Legislative Future of HTC-GO Act



CINDY HAMILTON, HERITAGE CONSULTING GROUP

In continuation of our ongoing conversations with Patrick Robertson of Confluence Government Relations, we sat down again to discuss the status of the Historic Tax Credit Growth and Opportunity (HTC-GO) Act. Robertson, who leads the Historic Tax Credit Coalition (HTCC) government relations effort, oversees the legislative lobbying efforts for historic tax credits (HTCs). Throughout the past year, HTC-GO's efforts have reached new heights with record numbers of sponsors across the aisle in both houses.

Jan. 3, 2023, marks the end of the 117th Congress. The new 118th Congress, elected in November, will be sworn in and take office the first week of January. As of the time of writing, voting results show that the Republicans will likely have a narrow majority in the House of Representatives, while control of the Senate will go to the Democrats. For the balance of this year, a lame-duck Congress will meet, with a number of retiring or defeated members and senators still voting and wrapping up the business of the 2021-22 Congress. Once the new congressional session starts, all bills and resolutions will be wiped out and the new Congress will start again.

The lame-duck Congress, however, needs to fund the federal government and pass the annual defense bill. After those two things, a slew of other priorities such as raising the debt ceiling, doing a small tax package, avoiding Medicare reimbursement cuts to providers and others are competing for Congress's attention and time. It is unlikely that HTC-GO will be incorporated into any of these potential acts.

The following is a continuation of our interview with Robertson:

Q: HTC-GO has had unprecedented support in both Houses and across the aisle. How would you sum up the enthusiasm for this legislation?

A: Other than the frenzied few weeks before tax reform in 2017, this year is the high-water marker for HTC advocacy in my career. We have reached 100 co-sponsors on the House version of HTC-GO, with 14 co-sponsors in the Senate. Additionally, we have seen a lot of success not only in our Lobby Days and Washington, D.C. outreach, but the HTCC also partnered with Preservation Action this year to invite every member of Congress and senator on a site visit over the fall, which proved to be very successful.

While the industry has faced a number of challenges from all sides, the activation of grassroots advocacy these past two years is certainly a success story. Last year, the House Ways and Means Committee passed all the pieces of HTC-GO in its initial draft of [the]

Build Back Better [Act]. As that package shrunk through political maneuvering and eventually never passed, a number of priorities were left out, like the improvements to the HTC.

At the same time, improvements to the HTC have never passed the Ways and Means Committee before last year. The HTC and its users have significant bipartisan support in both chambers and among a number of members of the tax-writing committees, which is how we have made the progress we have made.

Q: What is the status of HTC-GO?

A: Like all bills, if HTC-GO does not pass before the end of the current Congress, it will need to be reintroduced. We have long worked to ensure that the HTC and our improvements have bipartisan support and will be considered regardless of which party controls Washington or one of the chambers of Congress. Our lead sponsors, Sens. Ben Cardin (D-Maryland) and Bill Cassidy (R-Louisiana) and Reps. Earl Blumenauer (D-Oregon) and Darrin LaHood (R-Illinois) have been steadfast supporters and we expect them to continue to support the credit next year when all four are expected to return.

In the meantime, we are working with Congress to include some portion of HTC-GO if there is an end-of-the-year tax bill. That compromise, which would need 60 votes in the Senate, would likely start with extension of the Child Tax Credit and the temporary provision of the Research and Development Credit. Other community development credits are also trying to use that vehicle for improvements or extensions.

As the results of the election begin to set in and Congress returns to Washington, we will learn more about the contours of the lame-duck session and whether a tax bill is likely to happen or not.

Q: What aspects of HTC-GO are most palatable and most problematic?

A: The HTC clearly has the benefit of broad bipartisan support. The essence of the HTC program is one

that both parties find impactful from an economic development and jobs creation standpoint. As with all legislation, however, it comes down to the scoring.

The one difference between the House and Senate versions of HTC-GO is the temporary bump to 30%. The House version includes this provision, while the Senate version does not. There was some concern last year when the bills were introduced about the cost of the increase and how it would be used. As a result, in a bipartisan process where any bill will need at least 10 Republicans to pass the Senate, that provision seems to be the least likely to be included in a finalized bill. When the House bill was scored in 2021, in a very different economic environment, the Joint Committee on Taxation estimated that this increase would cost the Department of Treasury \$8.5 billion over 10 years in foregone revenue.

After that, the increase in the HTC to 30% for small projects would have only cost \$1.5 billion because some of that cost was baked into the larger extension. Lowering the substantial rehabilitation test to 50% would cost \$8.5 billion. Eliminating the basis adjustment was found to cost just over \$6 billion over 10 years. Finally, modifying the tax-exempt use rules scored at \$481 million over 10 years.

These estimates represent what it would cost to do all of the provisions of HTC-GO and they build on each other. For example, if you make more buildings eligible to utilize the credit, the cost of increasing the credit would be higher. Therefore, doing one or two of these items would come with a lower score to the federal government to that which was provided last year.

As Congress is considering a tax bill that very well could be temporary, these costs have a lot to do with how they fit provisions together.

Q: What is the path forward for the next year?

A: If we do not enjoy success this year, we will be back next year in the new Congress with some new faces to

try and convince policymakers to improve the HTC. The HTCC's board is meeting at the end of the year to think through policy priorities for next year.

While many of these priorities are legislative, the HTCC has also been meeting with the National Park Service (NPS) and state historic preservation officers (SHPOs) to see if there are ways to improve the administration of the credit. There is a groundswell of concern in the industry that the program has gotten harder to use, more stringent and takes longer. Combined with other challenges, this has made the program less useful and jeopardizes the long-term future. Conversations to date with the NPS and SHPOs have been promising.

Q: What can industry stakeholders do to advance advocacy efforts?

A: First, if they are not members of the HTCC, the industry's only trade association and advocacy group, they should join. In addition, they should make sure they are telling their elected officials about the impact of the HTC and some of its shortcomings.

The HTCC is looking for ways to engage advocates next year, including Lobby Days, further site visits,



Image: Courtesy of Confluence Government Relations
Patrick Robertson of Confluence Government Relations

communications with Congress and other opportunities. We welcome everyone in the industry—both directly and indirectly involved in HTCs—to join us in those efforts. ♦

Patrick Robertson is the principal of Confluence Government Relations, a full-service government affairs and business advisory firm based in Washington, D.C. Since 2009, Robertson has served as the government relations consultant for the HTCC, engaging with members of Congress and the various presidential administrations on the importance of the HTC as a job creator and economic development tool. Robertson oversees the day-to-day operations of the HTCC and assists in strategic planning and the development of legislation to continue to improve upon and expand the HTC.

Cindy Hamilton is president of Heritage Consulting Group.

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