

New Markets Tax Credit (NMTC) Guidelines

GUIDELINES

Definitions:

Adjusted Purchase Price: The product of the amount paid to the issuer of a qualified equity investment for such qualified equity investment; and the following fraction:

$$\frac{\text{Dollar amount of qualified low-income community investments held by the issuer in MO as of the credit allowance date during the applicable tax year}}{\text{Dollar amount of qualified low-income community investments held by issuer in all states as of the credit allowance date during the applicable tax year}}$$

Credit Allowance Date: the date on which such investment is initially made, and each of the six anniversary dates of such date thereafter.

Qualified Active Low-Income Community Business:

Under IRC 45D(d)(2), any corporation (including a nonprofit corporation) or partnership if, for any taxable year:

1. At least 50 percent of total gross income of such entity is derived from the active conduct of qualified business within any Low-Income Community.
2. A substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any Low-Income Community.
3. A substantial portion of the services performed for such entity by its employees are performed in any Low-Income Community.
4. Less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in IRC408(m)(2)), other than collectibles that are held primarily for sale to customers in the ordinary course of such business; and
5. Less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity (as defined in IRC1397C(e)) is attributed to nonqualified financial property.

Provided that any business that derives or projects to derive 15 percent or more of its annual revenue from the rental or sale of real estate shall not be considered to be a qualified active low-income community business.

Qualified Community Development Entity (CDE):

Under IRC 45D(c)(1), any domestic corporation or partnership if:

1. The primary mission of the entity is serving, or providing investment capital for Low-Income Communities or Low-Income Persons;
2. The entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity; and
3. The entity has entered into an allocation agreement with the Community Development Financial Institutions (CDFI) Fund of the U.S. Treasury Department with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended, which includes the state of Missouri with the service area set forth in such allocation agreement.

Qualified Equity Investment (QEI): any equity investment in, or long-term debt security issued by, a qualified community development entity that:

- a. Is acquired after the effective date of this section at its original issuance solely in exchange for cash;
- b. Has at least 85 percent of its cash purchase price used by the issuer to make qualified low-income community investments; and
- c. Is designated by the issuer as a qualified equity investment under this definition and is certified by the Department of Economic Development as not exceeding the limitation by this program.
- d. This term shall include any qualified equity investment that does not meet the provisions under a. if such investment was a qualified equity investment in the hands of the prior holder.

Qualified Low-Income Community Investment: any capital or equity investment in, or loan to, any qualified active low-income community business. With respect to any one qualified active low-income community business, the maximum amount of qualified low-income community investments made in such business, on a collective basis with all of its affiliates, that may be used from the calculation of any numerator as part of the Adjusted Purchase Price, is ten million dollars whether issued to one or several qualified community development entities.

Issuer: Qualified community development entity.

Subsidiary CDE: any legal entity that is owned or controlled directly or indirectly by the Applicant CDE.

Tax Credit: a credit against the tax otherwise due under chapter 143 RSMo, excluding withholding tax imposed in sections 143.191 to 143.265, RSMo, or otherwise due under section 375.916, RSMo, or chapter 147, 148, or 153 RSMo.

PROCESS:

An Applicant CDE that is certified by the Federal NMTC program and has entered into an allocation agreement with the CDFI is eligible to apply for the state NMTC program. The state application will be a two part process:

1. An Applicant CDE will apply to the Department of Economic Development on a first come, first serve basis. DED will review the application for eligibility. Once eligibility is determined, DED will send a preliminary approval letter to the applicant CDE which will include an allocated amount of NMTC contingent upon qualified equity investments being made within 30 days of the date of the preliminary approval letter.
2. The Applicant CDE has provided proof of investment, when the 30-day period when the applicant has proof of investment, an official allocation letter will be sent to the Applicant CDE.
3. Applicants not successful in gaining proof of investment agree to the total amount of the application will be required to reapply. The new submittal will require a commitment that secures the investment in the amount of the application to accompany the new submittal.

Twelve months from the date of the official allocation letter, the Applicant CDE must notify DED where the QEI was invested, provide adjusted purchase price, Senator and Representative information on where investment was made, and how much of a tax credit will be available for the taxpayer.

A taxpayer that makes a qualified equity investment earns a vested right to tax credits. On each credit allowance date of such qualified equity investment, the taxpayer, or subsequent holder of the qualified equity investment, shall be entitled to a tax credit during the taxable year including such credit allowance date.

The tax credit amount shall be equal to the applicable percentage of the adjusted purchase price paid to the issuer of such qualified equity investment:

- 0% for each of the first 2 credit allowance dates;
- 7% for the third credit allowance date;
- 8% for the next four credit allowance dates

The amount of tax credit claimed shall not exceed the amount of the taxpayer's state tax liability for the tax year for which the tax credit is claimed. The tax credit is not refundable or transferable. Any amount of credit that cannot be used in the taxable year may be carried forward to any of the taxpayer's five subsequent taxable years.

Tax credits earned by a partnership, limited liability company, S-corporation, or other "pass through" entity may be allocated to the partners, members or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members, or shareholders.

The issuer of the qualified equity investment shall certify to the Department of Economic Development the anticipated dollar amount of such investments to be made in Missouri during the first 12-month period following the initial credit allowance date. The DED shall limit the monetary amount of qualified equity investments to no more than will produce 15 million dollars of tax credits in any fiscal year. The limitation on qualified equity investments shall be based on the anticipated utilization of credits without regard to the potential for taxpayers to carry forward tax credits to later tax years.

POLICY:

DED has the right to recapture under the following provisions:

- Any amount of the federal tax credit available with respect to a qualified equity investment that is eligible under this program is recaptured under the federal NMTC program.
- The issuer redeems or makes principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of such qualified equity investment.

New Markets tax credit allocations will be made on a first come, first serve basis. All applications will be date and time stamped. In the event that DED receives more requests for allocation than the statutory limits allow on the same day and time (mail delivery) which occurs daily at 10:00 a.m., the DED will review those applications based upon:

- Capacity and experience of the applicant (ability to secure investments, record of successful projects)
- Economic impact of any projects identified in application (based upon estimated investment and jobs)

- Urgency or need for capital for competitive projects, which include business recruitment or location projects where DED is competing against another state
- Identified gap financing
- Characteristics of area or region identified (current activity or growth, economy, demographics). Those applications will be selected and awarded up to the statutory limit.
- Applications containing commitment letters.

DED has the right to request supplemental information from the applicant.

Qualified equity investment shall not be made following fiscal year 2010, unless the program is reauthorized by the general assembly.

Send applications to:
New Markets Tax Credit Program
301 W. High, Room 770
P.O. Box 118
Jefferson City, MO 65102
573.522.8004
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