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IRS Postpones Time-Sensitive Deadlines for New Markets Tax Credit Investments and Expenditures

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As part of his emergency declaration issued in March, President Donald Trump directed the Treasury Secretary to relax tax deadlines, as appropriate, in the face of financial uncertainty surrounding the COVID-19 crisis. In accord with that declaration, the IRS released **Notice 2020-49** on June 12th to provide relief under the New Markets Tax Credit program for community development entities ("CDEs") and qualified active low-income community businesses ("QALICBs") to satisfy certain time-sensitive acts required to be performed under Section 45D of the Internal Revenue Code. Specifically, Notice 2020-49 extends the deadlines for CDEs to make investments or reinvestments in qualified low-income communities and for QALICBs to spend money on construction projects in qualified low-income communities.

CDE Investment/Reinvestment Deadlines

For purpose of the "substantially all" requirements under Treasury Reg. §1.45D-1(c)(5)(iv), CDEs are required to invest cash received from a qualified equity investment ("QEI") in a qualified low-income community investment ("QLICI") within twelve (12) months of receipt. CDEs originally required to invest such cash between April 1, 2020, and December 31, 2020, will be deemed to have satisfied the "substantially all" requirements if such investment occurs by December 31, 2020.

CDEs are also required under Treasury Reg. §1.45D-1(d)(2)(i) to redeploy in a QLICI amounts received, in payment of, or for capital, equity or principal with respect to a QLICI within twelve (12) months from the date of receipt in order to satisfy the NMTC continuously invested requirements. If the last day of such redeployment period falls on or after April 1, 2020, and before December 31, 2020, such redeployment will be deemed to have satisfied the NMTC requirements to the extent it occurs by December 31, 2020.

QALICB Expenditure Deadlines

The NMTC program limits a QALICBs ability to hold nonqualified financial property. Treasury Reg. §1.45D-1(d)(4)(i)(E)(2) provides that the proceeds of a QLICI expended for construction of real property within twelve (12) months after the date of the QLICI will be classified as working capital and therefore excluded from the exception for nonqualified financial property. Under Notice 2020-49, QALICBs originally required to expend the proceeds of a QLICI for the construction of real property between April 1, 2020, and December 31, 2020 in order to be classified as working capital of the QALICB, will satisfy the NMTC requirement if the proceeds are expended by December 31, 2020.

Extending these time-sensitive deadlines provide CDEs and QALICBs flexibility during these times of uncertainty and limits the impacts COVID-19-related delays may cause on NMTC transactions.

If you have questions pertaining to information found in this alert, or any federal tax credits, please contact **Scott C. Frissell**, **David E. Corbitt** or your regular Krieg DeVault contact.