

New Markets Tax Credit Bulletin

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House, Senate Work to Reconcile Tax Extenders, Small Business Tax Provisions

The House and Senate are both moving forward and working to lay the groundwork for smooth conference agreement on tax extenders that may also include certain small business tax and infrastructure provisions and offsets to pay for the cost of such measures. In doing so, Congress will take provisions from the three separate bills while the Senate Finance Committee moves a fourth.

Both Chambers have passed H.R. 4213, the *Tax Extenders Act of 2009*. Both versions of the legislation include \$5 billion in Credit authority for New Markets for 2010 as well as other individual and business tax provisions.

In March, the House passed the *Small Business and Infrastructure Jobs Tax Act of 2010* (H.R. 4849) which included Alternative Minimum Tax (AMT) relief for NMTC investors on Qualified Equity Investments (QEIs) made from March 15, 2010 through January 1, 2012. Other provisions in the House-passed small business bill, such as extension of Recovery Act terms for Build America Bonds through 2013 (estimated to cost \$7.5 Billion) and exemptions from AMT for interest earned on tax-exempt and other private activity bonds.

Next week, the House will take up the conference agreement on HR 4213. The extender package will contain NMTC extension and may also carry provisions included in the HR 4849, including Build America Bond provisions and AMT relief for New Markets. One of the reasons for this piecemeal approach is that some of these provisions (although not NMTC) are controversial and unlikely to win approval in the Senate Finance Committee.

More than \$30 billion in potential offsets for extenders were used up to pay for the healthcare reform bill. As a result, tax writing committees in both Chambers are trying to cobble together other revenue offsets for the massive package of tax provisions. Taken together, the tax extenders and small business provisions along with a possible permanent revision in Medicare reimbursement rates (the Doc Fix) could total some \$200 billion, with most of that for the "Doc Fix." The cost of extenders and related provisions will be offset by revenue raisers that could include taxing carried interest as ordinary income not capital gains to provide \$20 billion, \$10 billion in revenue from a new payroll tax on certain S-Corp distributed income, and taking \$8 billion out of the Medicare Improvement Fund. The cost of the Doc Fix will be deemed emergency spending.

Also next week, the Senate Finance Committee plans to mark up a roughly \$10 billion small business tax package on Wednesday. Finance Chairman Baucus made clear his preference to keep the small business tax bill free of extraneous measures that other Senators on the Committee wish to include such as an estate tax fix and a provision related to China's currency valuation.

Congress is looking to wrap up legislative business before the Memorial Day recess, increasing the likelihood of action on extenders.

New Markets Tax Credit Coalition
1331 G Street, N.W. • Washington, DC 20005
Phone: (202) 204-4500 • Fax: (202) 393-3034
www.newmarketstaxcreditcoalition.org