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Tax Reform – Consolidated Appropriations Act Provides Added Bonus for LIHTC Projects

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On March 23, the President signed the Consolidated Appropriations Act, 2018 (H.R. 1625), a $1.3 trillion dollar spending bill that funds the federal government through September 30, 2018. In addition to preventing a government shutdown, this omnibus spending bill incorporated the following key provisions that help to strengthen and expand the Low Income Housing Tax Credit (LIHTC):

- A 12.5% increase in the annual per capita LIHTC allocation ceiling (after any increases due to the applicable cost of living adjustment) for calendar years 2018 to 2021.
- An expansion of the definition of the minimum set-aside test by incorporating a third optional test, the income-averaging test. Pursuant to the Code, a project meets the 40-60 minimum set aside test when 40% of the units in the project are both rent restricted and income restricted at 60% of the area median income. Under the new law, the income test is also met if the average of all the apartments within the property, rather than every individual tax credit unit, equals 60% of the area median income. Notwithstanding, the maximum income to qualify for any tax credit unit is limited to 80% of area median income.

This legislation is a great win for affordable housing advocates who have been pushing for LIHTC improvements through the Affordable Housing Credit Improvement Act, introduced in both the Senate (S. 548 sponsored by Senators Cantwell and Hatch) and the House (H.R. 1661 now sponsored by Congressmen Curbelo and Neal) in 2017, as discussed previously in a prior blog post.

We will continue to provide updates on legislation related to Tax Reform.

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