



INDUSTRY ALERT

December 7, 2011

IRS Publishes Final Regulations: NMTC Targeted Population Provisions

Synopsis

On December 5, 2011, the IRS published final regulations regarding the targeted population provision under §45D(e)(2) of the Internal Revenue Code (IRC). The final regulations supersede the proposed regulations that have been in effect since September of 2008. The purpose of this provision is to create an option for qualification under the NMTC program for financing entities that may not be physically located in a low-income census tract. If certain individuals (or groups of individuals) are designated low income, or lacking access to loan or equity investments, and are not located in a census tract that exceeds 120% of the area family median income, they may meet the definition of a qualifying business for purposes of the NMTC program.

Suggested Action

After consulting Reznick Group's mapping tool ([NMTC Mapping Tool](#)), please review this Tax Alert and the final regulations and [contact](#) your Reznick Group [NMTC](#) professional to determine whether and in which manner the final regulations could affect your project financing or project qualification.

Background

Typical qualification for the NMTC program is a function of the physical location of a project and the demographics of the census tract of such project. The targeted population regulations expand the opportunity to the extent a project serves:

- 1) Low income persons or
- 2) Individuals that otherwise lack adequate access to loans or equity investments.

While proposed regulations have existed for the past 3 years and were helpful, they presented some challenges in terms of meeting the nuances of the regulations and the ability to effectively administer and maintain program qualification.

Accordingly, the final regulations provide additional guidance on the following issues:

- Documenting low-income persons
- Items included in gross income
- Determination of the ownership provision
- Rental to others of real property and
- Fair market value standards for gross income inclusion

Effective Date

Final regulations were published and are effective as of December 5, 2011.



Contact

Although the final regulations related to the targeted population provision provide additional guidance for certain project financing, the rules related to the [New Markets Tax Credit](#) are complicated and subject to a great deal of interpretation, practical application and oversight. Please [contact](#) your Reznick Group professional services representative for further information.

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