

Nebraska Adopts a State Low-Income Housing Tax Credit

The Nebraska Legislature has adopted a state low-income housing tax credit ("LIHTC") program to accelerate the development of low-income housing in Nebraska (Laws 2016, LB [884](#)).

What is LIHTC?

Based on the federal Low-Income Housing Tax Credit ("LIHTC") program, the Nebraska program provides owners of qualified affordable housing projects a nonrefundable tax credit equal to the amount of federal low-income housing tax credits available to the project for a period of six years.

How can I use LIHTC?

A taxpayer may claim the credit against Nebraska:

- individual or corporate income tax,
- premium tax imposed on insurance companies, or
- the franchise tax imposed on financial institutions.

Nebraska is now one of sixteen states that have a state LIHTC program.

An insurance company claiming the credit against the insurance premium tax need not pay any additional retaliatory tax as a result of receiving the credit. And the legislation clarifies the use of the credit is payment of tax for purposes of corporate income tax.

How do I qualify for the state LIHTC program?

To qualify for the state LIHTC, an owner of an affordable housing project must apply to the Nebraska Investment Finance Authority ("NIFA") for an allocation of state LIHTC.

Are there any limitations on the state LIHTC program?

Yes, the following limitations apply to the state LIHTC program:

- A project must be placed in service after January 1, 2018 to qualify for state LIHTC;
- Total state LIHTC allocations are limited to the amount of the federal LIHTC available;
 - Federal LIHTC in Nebraska were approximately \$4.3 million in 2016;
- NIFA may allocate state LIHTC to a project only to the extent NIFA determines the credits are necessary to make the project feasible; and
- State LIHTC are subject to recapture if a portion of any federal LIHTC are recaptured or disallowed within the six-year credit period.

How can I learn more about the state or federal LIHTC programs?

Contact one of Baird Holm LLP's tax credit & alternative finance group attorneys:

<p>Brent W. Beller Phone: 402.636.8213 Email: bbeller@bairdholm.com</p>	<p>David C. Levy Phone: 402.636.8310 Email: dlevy@bairdholm.com</p>
<p>Jesse D. Sitz Phone: 402.636.8250 Email: jsitz@bairdholm.com</p>	<p>Garner R. Girthoffer Phone: 402.636.8217 Email: ggirthoffer@bairdholm.com</p>