Housing LIN
Connecting people, ideas and resources

Case Study 99

Funding Housing for Older People and Supported Housing: US Low Income Housing Tax Credits and their use in the UK

This paper is a follow up study undertaken last year in the USA which assessed the operation of Low Income Housing Tax Credits as a source of funding for affordable housing in the USA. It includes examples of schemes funded for people with support needs and older people.

The aim for the study was to explore whether there are useful elements within the US system of funding affordable housing that could be employed in the UK. This study will hopefully contribute to the wider debate on determining additional ways in which affordable housing can be funded in the UK and boost housing production, including housing for vulnerable and older people.

Older persons' apartments, Central Boston

Written for the Housing Learning and Improvement Network by **Vic O'Brien**, Development Director, GreenSquare Group and a Winston Churchill fellow.

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1. The problems facing Affordable Housing production in the UK

The housing association sector is increasing the use of its asset cover to support higher lending per unit due to decreasing grant support per unit. This in turn is reducing housing associations capacity. Add to this, the reducing level of affordable housing provision within planning obligations and the impact of the present low grant rates and higher procurement costs, and the heavy downward pressure on UK affordable housing production is clear. The present financial environment for housing associations is unlikely to change, at least for the medium term. Even if there is a change of Government in 2015, there will continue to be financial pressure on the UK's budget and Public Sector Borrowing Requirement. Moreover, affordable Rents and low grant rates are unlikely to be done away with in the near future and this raises the question of 'are there other ways that supported and affordable housing could be funded in the UK that does not rely on grant or planning agreements?' This study, adapted for Housing LIN purposes, considers one possible response to this question from the USA: Low Income Housing Tax Credits (LIHTC). The main report can be found at:
www.wcmt.org.uk/reports/1185_1.pdf

2. Affordable Housing in the USA

Affordable housing is a relatively small portion of the USA's housing stock. According to the 2010 US census, the total USA housing stock was 132 million. Of this total, 2.5 million properties are affordable homes funded by LIHTC. In addition, there are a further 1.2 million affordable homes owned by Public Housing Authorities and 1.4 million privately owned affordable homes have project-based rental assistance under older Federal programmes.

Housing need, and the lack of affordable housing to meet it, is a more severe issue in the USA than in the UK. There is no obligation for local or national government bodies to house homeless people or those in housing need. For example, the Department of Health and Human Services of the State of North Carolina, which is a State with 9 million residents, report that on any one night, there would be typically 12,000 homeless people including 2,000 children.

The US section 8 Rent Assistance (equivalent to UK Local Housing Allowance) is limited in supply and is only available to about 25% of those who need it. US Local Authorities usually prioritise people with support needs, the elderly and war veterans.

3. The Principles of the Operations of the LIHTC System.

The LIHTC system involves a central driving mechanism whereby corporations invest in low income housing and derive their return on their investment via a reduction in their tax liability (i.e. a tax credit). In this way, typically, 50% to 60% of the cost of an affordable housing project is funded without a requirement for a revenue stream from the project's rent to repay the investment with interest. A complex market system has developed around this fairly simple principle which is regularly referred to as a LIHTC 'ecosystem'.

Low Income Housing Tax Credits are reductions on a dollar for dollar basis of an investor's tax bill. This reduction is claimed in equal portions over 10 years. The reduction in tax replaces the return of interest and principal. $1million of tax credits creates c. $10m of investment. Investors are usually large publically quoted companies, especially banks and insurance companies which are familiar with real estate and multi-family housing finance. The system does not work well for individual investors due to changes in the tax regulations in the 1990s. However, in order to qualify for tax credits, a low income housing project has to meet all the requirements in terms of standards, rents, the status of its occupiers and occupation levels for an initial 'compliance period' of 15 years, followed by an 'extended use period' of at least 15 more years.

A 7 minute animation produced by Novogradac (a US accounting firm that specialises in tax credit investment), which explains the system in simple terms; can be found on YouTube at the weblink: www.youtube.com/watch?feature=player_detailpage&v=XxwpoLztx70

i) Qualifying base

Tax Credits can only be claimed against expenditure which falls within the qualifying base. This is essentially expenditure that can be depreciated and includes all build costs and fees but excludes the cost of land, reserves and certain other financing and soft costs. This creates a limit on the maximum level of tax credits for which a project can qualify.

The LIHTC investment in a project typically comprises 50-60% of total project cost, with the remaining costs covered by a combination of hard and soft loans. Hard loans are ones that have to be repaid with regular repayments including interest. Soft loans usually involve loans on beneficial terms from States or Municipalities. Usually these loans do not involve repayments during the repayment period. Instead, loan repayments are 'rolled up' and paid at the end of the 15 year compliance period as part of a refinancing arrangement.

ii) LIHTC allocation

Congress sets the national tax credit limit and allocates the tax credits annually to each State based on the population of the State, i.e. allocation is on a per head basis. The last allocation was based on $2.35 per head.

iii) Department of Housing and Urban Development (HUD)

HUD identifies Qualifying Census Tracts (QCT), which are the poorest 20% of the area of a State. These QCT's qualify for a 'basis boost' whereby, for the purposes of calculating the Qualifying Base, for investment, the qualifying costs of a project can be multiplied by 130%. Therefore, for a given LIHTC project in a QCT the amount of Qualifying Base would be the qualifying cost multiplied by 130%. This increases the amount of LIHTC and percentages of funding that can be invested in a given scheme in the Census Tract area. This is necessary as affordable rents are usually particularly low in these areas and the level of loan debt a LIHTC project can support is lower than other areas. Therefore, to be viable, projects in these locations require higher levels of LIHTC investment.

iv) State Housing Finance Agencies

The State Housing Finance Agencies produce a Qualified Allocation Plan (QAP) annually. This plan lays out the State's spending priorities together with its quality standard requirements. Often States will cap the level of tax credits per development. For example, Massachusetts capped its LIHTC investment per scheme to $1m pa resulting in LIHTC funders obtaining a maximum of c. $10m in Low Income Housing Tax Credits per scheme. This cap results in most schemes that are approved in Massachusetts having a Qualifying Base of c. $10m and producing about 70 units.

The State calls for bids (usually annually) to meet the QAP. Developers bid with project proposals that meet the requirements of the QAP. The HFAs then allocate tax credits in line with their QAP. The competition is based on the criteria which are laid out in the QAP. The States' call for bids involves developers, syndicators and investors lining up projects and putting them forward as schemes for investment. The schemes have to be 'shovel ready' - that is ready to start on site within 12 months. States often shorten the requirement to as little as 6 months. This means that schemes need Zoning Permits (Planning permission) and Building Permits (Building Regulations approval) and all the usual soil and other surveys completed at the point of bidding. Developers therefore spend a great deal of money at risk in order to bid. In North Carolina, a developer estimated their cost at risk due to this approach was about $35k per project bid. In order to bid, developers also require a written, non binding offer, of LIHTC funding from a syndicator or investor as well as from lenders and any other funding sources.

v) Completion and Lease Up

Once a scheme reaches build completion, notification is given to the IRS by a Certified Public Accountant (CPA), at which point the IRS issues a Form 8609 which confirms the qualifying LIHTC amount. Once this is received a K1 form is issued by the CPA to the investor, so that the investor can claim the tax credits due in respect of the completed project.

vi) The Legal Structure of a LIHTC project

There are a number of elements to the legal structure of a LIHTC deal. The funding for a single project typically involves an investor investing in a syndicator's fund and the syndicator's fund then investing in the project. 'Syndicators' are firms who organize and manage investment funds to invest in LIHTC projects, and then provide asset management services to investors in the fund. Diagram 1, below, represents a typical LIHTC project legal structure.

The LIHTCs and other tax benefits associated with depreciation and other deductions flow according to the ownership percentages. Therefore, the fund receives 99.99% of the project-level tax benefits, and the investors receive 99.99% of the fund's benefits.

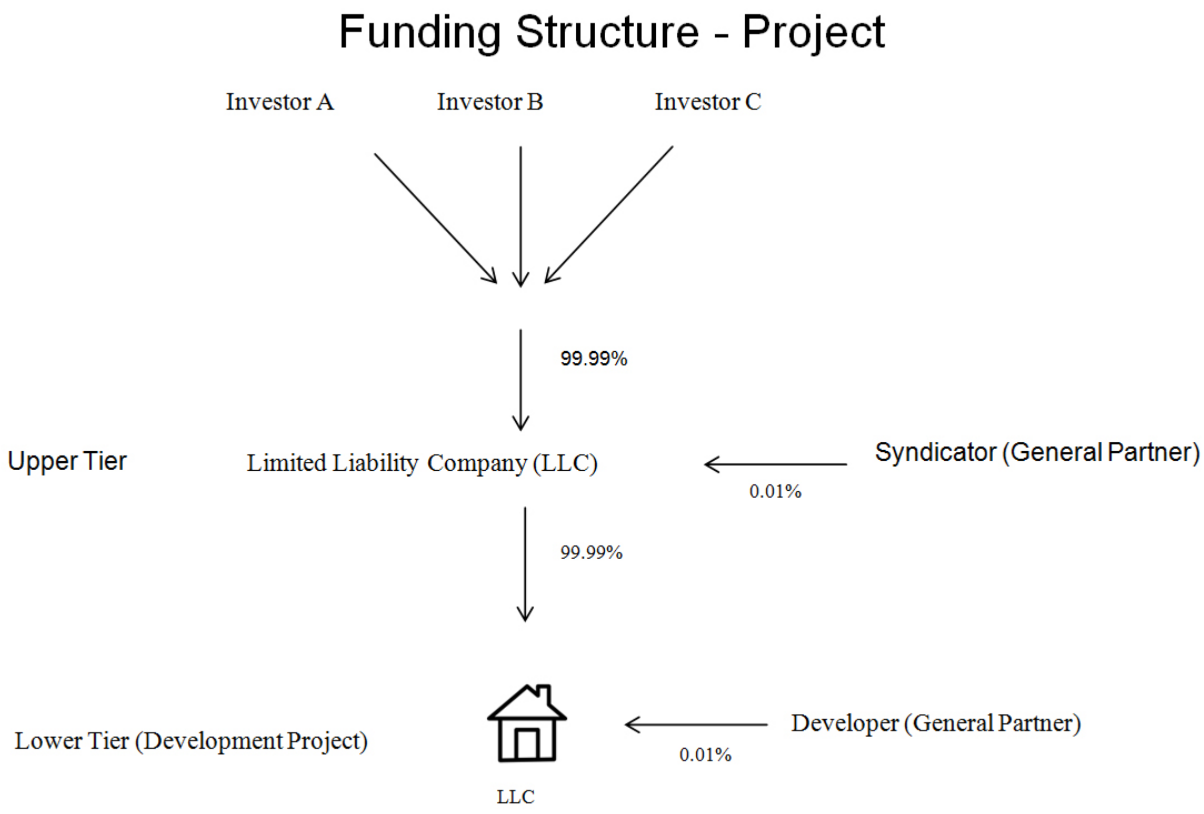
The use of a Limited Liability Company (LLC) is the more commonly used form of LIHTC structure at present. In the past, Limited Partnerships (LPs) were more common. Under LP structures investor members are referred to as Limited Partners and managing members are referred to as General Partners. Even though the LLC are now more commonly used, the LIHTC industry still uses the terms Limited Partner and General Partner to describe the roles of investor and developer. These terms are used in the remainder of this document.

Diagram 1 shows how the funding is applied through the legal structure to the project.

i) A syndicator establishes a limited liability company (LLC) where the syndicator is the managing member and the investor are investor members. The syndicator takes 0.01% and the investors take 99.99%.

ii) The LLC run by the syndicator set up in i) above then invests in individual projects with the Developer taking 0.01% and the investor takes 99.99%.

Diagram 1 – The Funding Structure of a LIHTC Project



vii) Rents

Rents are based on catering for households whose income is 60% or less of Area Median Income (AMI) within a Qualifying Area. Often States give additional points/weighting within their QAPs to proposals which cater for a proportion of households on lower incomes, e.g. specifying a percentage of rents at 50%, 40% or 30% of AMI. In each case the rent will be 30% of the income level derived from the relevant calculation of AMI. For example, a net income of 60% of AMI might be $21,000 and the rent could not be more than $7,000 pa.

Rental assistance is mainly given to qualifying individuals in the form of Section 8 funding. Section 8 is only available to about 25% of people who require it. Some affordable housing schemes have section 8 allocated to them as a revenue subsidy contract. The section 8 revenue payment covers the difference between the rent level from the LIHTC rents (calculated as a percentage of AMI) and the tenant's income. This difference is reassessed each year. If the resident's income increases the section 8 revenue payments will be reduced.

viii) Lettings

There are no nomination arrangements or waiting lists for LIHTC schemes. Generally new LIHTC properties are let via a prequalification process to ensure residents can afford the rent and meet the income criteria to qualify for a LIHTC property. Then qualifying residents are selected via a lottery. If a tenant's income increases they can remain in the property.

ix) The Financial structure of LIHTC projects

The typical financial structure of a project can be represented as:

Soft Loans	30%
Hard loans	20%
LIHTC equity	50%

Of this funding only the repayment of the hard loans requires support from the rents. The LIHTC funding is in exchange for the investor receiving the tax credits. The soft loans generally come from the State, or a State sponsored body, as well as from cities and from certain Federal programmes, e.g. HOME and CDBG. The interest on the soft loans is generally rolled up and repaid through refinancing in year 15 when the LIHTC compliance period ends.

x) Equity Investment and LIHTC

At the point of bidding for LIHTCs, developers need proof in writing that they have an investor willing to invest in exchange for the LIHTCs. This is not binding and often after the developer has been awarded the credits they may shop around further in order to secure other investment proposals on better terms.

There is competitive tension in respect of pricing of equity for investment in LIHTC. The tax credit entitles the LIHTC investor to reduce their tax bill by $1 for each $1 dollar of LIHTC funding. These are purchased at a rate determined through the competitive bidding process. LIHTC pricing presently varies between States from 85 cents per LIHTC dollar to over $1.07 per LIHTC dollar. The higher the LIHTC price the greater the amount of equity investment that is raised and the more investment in affordable housing secured.

In terms of managing investor risk, there are different approaches to investing depending on whether the investment in the organisation is considered 'equity' or 'debt'. With equity, the investors essentially own the asset and the returns reflect the risk. They view their General Partners as service providers. They will step in and remove them if they do not perform. The LIHTC returns are about the equivalent to 7.75% after tax or 10% before tax.

4. Compliance

The nature of the legal and financial structures involved in LIHTC mean that LIHTC funded projects are subject to a high level of scrutiny. Any compliance failures mean that the property becomes 'non compliant' in respect of its tax obligations and becomes a matter for the IRS. Their sanction is to suspend (or require repayment) of all or some of the tax credits relating to the property.

The failure rate of LIHTC properties is very low, only 0.69%.[i] Another assessment in 2013 assessed the failure rate to be 0.62%[ii] thus demonstrating that LIHTC properties are maintained to a very high standard and the failure rate of LIHTC properties is very low.

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[i] Cohen Reznick, (2012) *The Low Income Housing Tax Credit Programme at Year 25: An Expanded Look at Its Performance*, Cohen Reznik

[ii] Economic Programme, Housing Commission, (February 2013) *Housing America's Future: New Directions for National Policy* BPC Housing Commission

5. Affordable Housing Use Periods Extensions Beyond the 15 year LIHTC Initial Period- 30 years and 55 years

Under LIHTC regulations, the compliance period is 15 years. However, Federal regulations require that a building be used for affordable housing for 30 years as a condition for receiving LIHTC allocations. A number of organisations working in the LIHTC sector are buying up LIHTC properties at the 15 year re-syndication stage for the cost of the exit taxes incurred by the LIHTC investor. They are treating these as an investment that they will realise once the 30 year affordable housing requirement ends when they will convert them into private sale/market rent properties. In some areas where gentrification has been strong, the return on investment can be dramatic, with property values tripling on conversion.

In some States, additional priority is given within the QAP for affordable housing schemes that offer longer affordable housing use periods. 55 years is not uncommon.

6. Affordable Housing Produced with LIHTC Funding

In each of the locations visited, new affordable housing was under construction or had been recently completed. These locations were New York, Washington DC, Boston, New Haven and North Carolina. Of these, there were two schemes in New York for people with support needs and one scheme for black elderly in Washington DC.

i) New York

Images from the CAMBA Gardens development in New York. (clockwise from top left) Garden area; Apartment bedroom; Apartment living room; Bedsit kitchen

In New York, Tom Eastman of Enterprise Community Investment, a LIHTC syndicator, kindly arranged a site visit to recent developments by CAMBA in Brooklyn. These were Reverend Dan Ram Residence at 97 Crooke Street and CAMBA Gardens Phase 1 at 690 and 738 Albany Avenue. More information on these two projects is contained at the web links below.

http://cambahousingventures.org/Projects/Completed/97CrookeAvenue.aspx

http://cambahousingventures.org/Projects/Completed/CAMBAGardens.aspx

CAMBA supply a range of services including social services, legal advice, financial support and affordable housing to low income and excluded people in New York. They were voted non-profit of the year by the New York Housing Conference in December 2013. This link to a video shown at the awards gives an insight into the work of CAMBA:
www.youtube.com/watch?v=owesRZDVHkI&feature=youtube

The scheme at 97 Crooke Street was complete and let. The project was for 53 residents and was mainly studio apartments. It included a concierge, staff offices, communal kitchen and lounge and a high quality communal garden. The external and internal environment was of a high quality with sculptures and artwork in the communal areas and the gardens.

The CAMBA Gardens Phase 1 scheme was nearing construction completion. The project was to supply 209, one and two bedroom apartments. The client group were all people in housing need that required affordable housing. Of these, 60% were to be formerly homeless households. The scheme was to be managed by a large management team including a building manager, eight case workers, a psychiatrist, security staff and cleaners. CAMBA Gardens was built to Platinum LEED standard (i.e. a very high environmental standard), and to a high specification, with high ceilings (9 to 12 feet), timber floors and granite worktops.

The floor area of the one bedroom apartments was c.700 square feet and two bedroom apartments, 900 square feet, compared with a typical UK affordable housing one bedroom apartment of 500 square feet and a two bedroom apartment of 670 square feet. Many of the residents who are to live in the new CAMBA scheme have complex support needs. CAMBA are to benefit from additional revenue funding for the project to cover the cost of the additional services to support this client group. This revenue funding is being made available from 'New York, New York 3' which is a joint revenue funding programme by New York City and New York State aimed at reducing homelessness through revenue funding housing support for vulnerable homeless people. Under this programme, different need groups are funded at different rates. E.g. someone with mental health issues would be funded at a rate of $25k pa. Goldman Sachs have invested $24m in the project supported by LIHTC.

ii) Washington DC

In Washington DC, Weincek Associates (architects who specialise in designing and project managing the construction of affordable housing) kindly arranged a site visit to their scheme for the National Caucus and Centre for Black Aged. This was a recently completed refurbishment scheme of an existing 175 apartment scheme for older people which is owned by the National Caucus and Centre for Black Aged (NBCA). See weblink:
www.wiencek-associates.com/featured-work/project.aspx?id=13

The original sheltered scheme was built in the early 1980s. It was in poor condition and Weincek Associates took on the refurbishment of the scheme. The refurbishment was undertaken while the residents were in situ. The refurbishment added balconies and 'fins' to the outside of the building through which new services were run. This approach reduced the amount of disruption to the residents. The scheme included a wide range of facilities including a cinema, an IT training suite, concierge, games room, pool room, guest suite, as well as offices for the staff.

Images from the National Black Caucus and Centre on Black Aged (NCBA) sheltered housing in Washington DC. (clockwise from top left) Exterior; Function/dining room; Cinema; Launderette

iii) Raleigh, North Carolina

In Raleigh representatives of the North Carolina Housing Finance Agency arranged a tour of some recently completed homes that have been funded with Low Income Housing Tax Credits. These included an estate of homes for older people.

Two typical types of affordable homes on the estate in Raleigh, North Carolina. Older persons' 'duplex' (left), nearing completion; Older persons' sheltered scheme (right)

7. The Politics of LIHTC

LIHTC first came into being in 1986 under the Regan administration. Prior to LIHTC, the development of affordable housing was mainly funded by Federal grants to public housing authorities as well as Federal loans and subsidies to private developers. This system became mired in corruption and poor quality outcomes (physical and social), and were generally ended in the late 1970s. LIHTC was introduced as an alternative in 1986. It was aimed at people on low incomes but not extremely low incomes. The programme received a wide range of political support. Because it resulted in affordable housing, it was supported by liberal politicians and because it involved a market solution to affordable housing investment and resulted in a reduction in taxes, it was also supported by conservative politicians.

LIHTC does not require a budget appropriation so remains 'below the radar' in the annual government budget negotiations. The fact that the tax credits are based on an annual distribution per head is helpful in obtaining buy in from individual State administrations as it is seen as fair. The LIHTC programme is also seen as efficient in using tax payers' money as it involves private risk-taking (investors typically fund during construction but tax credits only flow if a scheme is completed and occupied by qualified tenants in the required timeframe) and tax credit pricing is set by market competition.

8. The Community Re-investment Act (CRA)

The US Government enacted the Community Reinvestment Act in 1977 (the CRA). This Act resulted in banks' performance in community banking being rated for the first time. Under the CRA, financial institutions were obliged by law to demonstrate their deposit facilities, credit services and investment activity met the needs of the local communities in which they are chartered. They were specifically not obliged to make unsafe or unsound investments in their efforts to achieve these goals.

Each bank and savings institutions performance are regularly assessed under the CRA by Federal agencies and rated. The ratings are:

- Outstanding
- Satisfactory
- Needs to Improve
- Substantial Non Compliance

These ratings are taken into account in respect of Federal approval of banks and financial institutions merging or acquiring other institutions. Community banking therefore is now very important to most large financial institutions. LIHTC is a low risk way of investing in more deprived local communities.

9. The role of syndicators

Syndicators play a vital role in the LIHTC 'ecosystem'. In the USA there are a number of large non profit syndicators such as Enterprise Community Investment and the National Equity Fund (NEF). These organisations actively support non profit and for profit developers by securing development funding and supplying financial and development expertise. The National Equity Fund (NEF) share their offices in New York with their sister organisation, the Local Initiative Support Corporation (LISC). LISC specialise in supporting local community organisations by supplying expertise and some pump priming funding to support the development of projects.

In the LIHTC funding market there are also ‘for profit’ syndicators such as R4 and Hunt Capital Partners. They generally do not support ‘non profits’ in the same way as the large non profit syndicators and will only work with experienced developers with a good track record.

Some of the larger long term LIHTC investors adopt a much more direct relationship with the developers they work with. Bank of America was cited as having the most direct investment model for LIHTC schemes. For the most part, they do not use syndicators or contribute to a LIHTC fund/s. Instead they directly invest as a limited partner in individual LIHTC projects and then manage the oversight of their investments directly.

Once a development has been put into service, the syndicator will ensure that their asset remains compliant with the LIHTC rules and makes the expected return. If schemes do not perform for any reason, syndicators may employ the scheme’s reserves to cover the shortfall. Syndicators will use their best endeavours to ensure a LIHTC scheme does not fail. A failed scheme would result in immense damage to their reputation and they would struggle to attract any further business.

10. Year 15 Re-syndication

Most States have, for a number of years, required LIHTC funded schemes to remain affordable for 30 years as a condition of receiving tax credits. For example, that the property remains let to people meeting the LIHTC criteria for 15 years after the initial LIHTC compliance period.

Some States now require 55 year affordability terms and a few require 99 year terms. Therefore, at the end of 15 years the tax credit liability ceases but the obligation to continue letting the property as affordable housing continues. By year 15 the LIHTC investor typically has received the projected return based on LIHTCs and other tax benefits (depreciation, etc.), and usually just wants to exit the scheme with his costs covered. These costs are usually just tax liabilities. Because of the way in which the USA tax rules work, it is more advantageous for a non profit rather than a private company to purchase the property. The effect of this is that the majority of affordable housing is ‘captured’ for affordable housing for the longer term.

According to one larger developer, this has been changing recently and out of the active 29 syndicators operating in the USA, seven have been looking to make a significant financial return out of the year 15 re-syndication event. For example, millions of pounds beyond covering their tax liabilities and after their investment has been repaid with interest through LIHTC tax credits. In addition, many LIHTC schemes receive funding top ups, to make them viable, in the form of soft loans and discounted land from Municipalities and States. So, private investors making significant financial gains from scheme re-syndications are causing a great deal of concern among State administrations and others in the industry.

Small LIHTC developers, such as small community groups and churches, often do not have the financial or organisational capacity to re-syndicate and will sell their property on to another organisation who acquire the affordable housing as part of the re-syndication.

11. Tax Exempt Bonds

Tax exempt bonds are available to developers for affordable housing projects. If sufficient tax exempt bonds are used in an affordable housing project, they can be eligible for LIHTCs that are secured ‘as of right’, i.e. outside the competitive allocation process that States run for the higher rate annual State allocated LIHTCs. These bonds are used, not only for housing, but for other State projects such as roads and airports. There is a limit on the level of Tax Exempt bonds a State can issue that is set under legislation, but normally this is never reached (New York was a notable recent exception).

Tax exempt bonds are often used to refinance year 15 LIHTC re-syndication schemes. At 15 years, affordable housing schemes have a further 15 or more years to remain affordable and 50% or more of the development cost of the building costs have been paid off by the LIHTC investor. The tax exempt bond can be used to buy the affordable housing asset at year 15 for its cost in year 1, even though 50-60% of it has been paid for by the LIHTC investment. The 25-30% subsidy generated by the tax exempt bond is applied to the remaining 40-50% leaving 15-25% of the cost to fund through a "hard" debt. In some cases, a tax exempt bond is used as construction finance for a 15 year renewal. Under this arrangement the developer captures the tax credit subsidy and then refinances.

12. LIHTC and the Requirement to Make a Profit for 10 years

During the market crash in 2008, a range of banks made losses. This meant that the LIHTC Tax Credits were of no value to them. Even though banks are now able to make profits, the losses they made during the banking crisis have been rolled forward to be written off against existing profits and LIHTC tax credits remain of little value to many banks at least for the next few years. Many banks are setting up and investing in LIHTC deals and then immediately selling them on to other investors with tax liability.

LIHTC projects are very complex in their structure and each one is unique. This means that there is no standard financing structure. As a result, LIHTC tax credits can be traded but it involves negotiating specific deals rather than trading LIHTC in a market place. There is also no trading platform which means that there is no standardised market information, benchmarks or rates that can be referred to when trading. There was not a unified view on how easy it was to trade LIHTC investments. Most of the syndicators and investors will say that trading LIHTC tax credits is difficult because each LIHTC deal was different, with different financial arrangements.

13. Tax Credit Investment Rates

Tax credits are bid for competitively and the pricing is determined by the market. There are a number of drivers in the LIHTC market. The Community Re-investment Act (CRA) means that banks want to maintain high CRA ratings and will bid up LIHTC prices. The rules in respect of the CRA mean that where there are a lot of banks in an area, there is greater competition for the LIHTC tax credits. The opposite is true where competition is lower. Therefore, LIHTC prices are high in the coastal areas of the US. For example, recent LIHTC prices are at $1.07 in New York and c. 92¢ in Boston, and as low as 85¢ in inland areas of the USA.

The price of LIHTC tax credits also benefits from US rules on depreciation, where corporations investing in US real estate can depreciate their investment over 27.5 years (a provision that is not available to real estate investors in the UK). This provision means that it is possible to continue to make a return where LIHTC tax credits have been purchased for more than $1.

Prior to the 2008 financial crash, Freddie Mac and Fannie Mae which are both Government Sponsored Enterprises (GSEs) bought LIHTCs in areas where investor demand for LIHTCs is less competitive. As they were not banks they were not subject to the CRA. Freddie Mac and Fannie Mae's role in the market helped support the price and investment levels of LIHTC in areas where the banks were less active. Prior to the crash, these GSEs bought c. 40% of the

LIHTC issued by the USA Government each year. After the financial crash, although Fannie Mae and Freddie Mac were unable to use the LIHTCs they had acquired as they became loss making, the US government directed them to retain the LIHTCs they had acquired. It was economically better for the USA economy for Fannie Mae and Freddie Mac to retain the LIHTC that they had acquired than if they were sold to private investors. They continue to hold these LIHTCs to this day.

During the 2008 financial crash, banks came out of the LIHTC market and other corporate investors entered the market, such as Google and Berkshire Hathaway, and the price of LIHTCs dropped to about c. 75¢. It was the view of the Directors at Massachusetts Housing Partnership, that the 75¢ price of LIHTC in the period after the crash represented what the true price of LIHTC was without the effects of the CRA.

14. How a UK LIHTC system might work

The introduction of a LIHTC system would require introducing a wide range of new powers and obligations in respect of a significant number of different UK organisations. While not being prescriptive in how a LIHTC system might be eventually structured, by way of illustration it is worth listing the elements of a possible LIHTC structure. These are:

i) Tax regulations to support private capital investment.

ii) Parliament to determine the LIHTC budget and the tax credit per head on population per Local Economic Partnership area.

iii) The HCA to issue an annual prospectus stating investment priorities and quality requirements for LIHTC investment (much as it does now for grant investment).

iv) Housing Associations bid for the LIHTC tax credits, in a similar way that they bid for funds at present

v) It would be for Housing Associations to organise LIHTC investment funds from syndicators. Housing Associations to have the option to raise LIHTC investment funds directly for funding requirements in excess of £100 million.

vi) Registered (with HM Treasury) syndicators to secure funding from investors

vii) Housing Association developers to secure any investment funding via syndicators through a competitive process

viii) HCA to issue standard JV agreements and monitor consultancy costs to ensure these remain efficient

ix) Chartered Accountants certify completion and when property is ‘in service’

x) LIHTC compliance inspections to be run by Local Authorities

xi) At year 15 affordable housing transfers to a Housing Association as a condition of LIHTC funding. Transfer to be free of any remaining charges, overages of funding covenants other than the requirement that the housing transferred should remain in perpetuity as affordable housing.

xii) All LIHTC investment is on the basis of the housing developed remaining affordable in perpetuity/its economic life

xiii) Community banking regulation is introduced to encourage banks and financial institutions to invest in affordable housing via a LIHTC system

The possible UK LIHTC system that is outlined above seeks to avoid some of the more dysfunctional parts of the US system such as the high level of consultants expenses, and private investors having the ability to realise additional profits as part of the 15 year re-syndication. If a LIHTC system was to be introduced in the UK it would require a significant level of promotion to the investment industry by Government and the affordable housing sector.

Supported and Specialist housing usually requires subsidy, which is in short supply. Without a change to the present funding system, the production of supported and specialist housing will reduce further than its present level. A UK LIHTC system that avoids the problems and inefficiency of the US system could be a significant source of funding to maintain production.

LIHTC would enable private equity investors to fund supported and specialist housing, make a return and be able to show a strong commitment to Corporate Social Responsibility. Creating close business relationships between commercial Corporate bodies and organisations that develop and manage supported housing has the potential to create many other beneficial relationships beyond funding the bricks and mortar.

Note

The views expressed are those of the authors and not necessarily those of the Housing Learning and Improvement Network.

About the Housing LIN

Previously responsible for managing the Department of Health's Extra Care Housing Fund, the Housing Learning and Improvement Network (LIN) is the leading 'learning lab' for a growing network of housing, health and social care professionals in England and Wales involved in planning, commissioning, designing, funding, building and managing housing, care and support services for older people and vulnerable adults with long term conditions.

For further information about the Housing LIN's comprehensive list of online 'Health Intel' resources and to participate in our shared learning and service improvement networking opportunities, including 'look and learn' site visits and network meetings in your region, visit: www.housinglin.org.uk

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