

Part I

Section 45D.--New Markets Tax Credit

26 CFR 1.45D-1: New markets tax credit

Rev. Rul. 2010-17

ISSUE

For purposes of determining the new markets tax credit allowable under § 45D of the Internal Revenue Code, does the amount of the qualified equity investment made by a limited liability company (LLC) classified as a partnership include cash from a recourse loan to the LLC that the LLC invests as equity in a qualified community development entity?

ANALYSIS

Section 45D(a) provides a new markets tax credit to taxpayers who hold a qualified equity investment in a qualified community development entity. Section 45D(b) provides that a qualified equity investment means any equity investment in a qualified community development entity if, among other requirements, the taxpayer acquired the

investment solely in exchange for cash. Rev. Rul. 2003-20, 2003-1 C.B. 465, held that, on the facts presented in that revenue ruling, the amount of the qualified equity investment under § 45D(b) made by an LLC classified as a partnership included cash from a non-recourse loan to the LLC that the LLC invested as equity in a qualified community development entity. The rationale of Rev. Rul. 2003-20 applies equally where the loan is recourse.

HOLDING

For purposes of determining the new markets tax credit allowable under § 45D, the amount of the qualified equity investment made by an LLC classified as a partnership includes cash from a recourse loan to the LLC that the LLC invests as equity in a qualified community development entity.

EFFECT ON OTHER REVENUE RULINGS

Rev. Rul. 2003-20 is amplified.

DRAFTING INFORMATION

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