LEGAL QUICKSHEET™

Tax Credits and Other Governmental Assistance for Real-Estate Projects

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Federal Subsidies

SUBSIDY	POTENTIAL BENEFIT	QUALIFICATION/ AVAILABILITY	HOW OBTAIN?	LIMITATIONS/ RESTRICTIONS	CITES
New Markets Tax Credits	Up to 20% of project's total development cost through a loan expected to be forgiven after 7 years.	Loan recipient must be located in a "low-income community" or serving certain "targeted populations." Program works well with nonprofits, but for-profit entities use it also. Very competitive process. Allocations are awarded annually so timing can also be challenging.	Must find a "Community Development Entity" that has received NMTC allocation and is willing to use it for your project. CDE wants to use its allocation for projects that have good "community impact" to increase its chance of receiving future allocation.	Few limitations (e.g. cannot be used for rental residential buildings, golf courses, massage parlors, hot tub or suntan facilities, gambling facilities or liquor stores). Cannot prepay loan during 7-year compliance period. No assurance that loan will be forgiven after 7 years.	Internal Revenue Code §45D Treas. Reg. §1.45D
Renewable Energy Tax Credits	One-time tax credit equal to 10-30% of cost of energy facility.	Solar (30% but phasing out over next 4 years) Small Wind (30% but already subject to reduction depending on construction timing) Geothermal (10%)	No limit on amount of credits, nor any application process.	Taxpayer receiving tax credits must maintain ownership interest for at least 5 years, or suffer recapture. Damage or destruction or becoming non-income producing during this period would also result in recapture.	IRC §48 Treas. Reg. §1.48-9
Low Income Housing Tax Credits ("9%")	Tax-credit equity may equal 45% to 85% of total project costs depending on % of eligible costs and on pricing from tax-credit investor, which can vary project by project.	Multifamily rental with occupancy restrictions (at least 40% of units must be available to tenants with family incomes no greater than 60% of median income; or at least 20% of units must be available to tenants with family incomes of no greater than 50% of median income), and rent restrictions. Code now allows for income-averaging, but this has not yet been adopted in Minnesota.	The 9% credits are awarded through an annual application process that is highly competitive.	Rent and income limits apply for 15 years (or risk tax-credit recapture), as well as a contractual additional 15-year compliance period.	IRC §42 Treas. Reg. §1.42
Low Income Housing Tax Credits ("4%")	Tax-credit equity may equal 23% to 40% of total project costs depending on % of eligible costs and on pricing from tax-credit investor, which can vary project by project.	Same as for 9% LIHTC.	Subject to certain minimum requirements, the 4% credits are available if at least 50% of the project is financed with tax-exempt private-activity bonds. These bonds are subject to an annual cap but usually are available.	Same as for 9% LIHTC.	IRC §42 Treas. Reg. §1.42
Opportunity Zone Investment	Tax-advantaged equity investment.	Project must be located in State-designated "opportunity zone".	Need a qualified opportunity-zone fund willing (and able) to invest equity in project.	To maximize incentive, investor may want to keep investment for at least 10 years.	IRC §§1400Z-1 and 1400Z-2
Historic Tax Credits (Federal)	Tax credits equal to 20% of qualified rehab expenditures, received over 5 years. Amount that investors will pay for these credits vary widely, and owners must consider "put option" price at end of 5-year compliance period when evaluating proposals.	Available for any "substantial" rehab of a certified historic structure that complies with Secretary of the Interior standards for rehabilitation.	Need government approvals from National Park Service/State Historic Preservation Office. Part 1 certifies that building is a certified historic structure. Part 2 approves rehab plans. Part 3 certifies that actual rehab work met standards.	Taxpayer receiving tax credits must maintain ownership interest for at least 5 years, or suffer recapture. Damage or destruction or becoming non-income producing during this period would also result in recapture. Credits are not transferable or refundable, so many projects require a tax-credit investor as a 99% partner.	IRC §47 Treas. Reg. §1.48-12

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Minnesota Subsidies

SUBSIDY	POTENTIAL BENEFIT	QUALIFICATION/ AVAILABILITY	HOW OBTAIN?	LIMITATIONS/ RESTRICTIONS	CITES
Historic Tax Credits (Minnesota)	One-time tax credit equal to 20% of qualified rehab expenditures. If not sufficient tax liability to use all credits, unused amount will be refunded.	If qualify for federal HTCs, should also qualify for State HTCs.	Must submit a Part A application to State before starting rehab work. Upon completion, developer must submit a Part B application.	Tax credit certificate may be allocated to any member/ partner of building owner, and otherwise may be sold/ transferred one time.	Minn. Stat. §290.0681
Minnesota Redevelopment TIF District	Up to 100% of incremental real estate taxes created by the project for up to 25 years. State portion of RE taxes for commercial-industrial properties is not available.	More than 50% of the buildings in district must be structurally substandard to a degree requiring substantial renovation or clearance. (Lower threshold exists for renewal and renovation district, which can last up to 15 years instead of 25.)	Must negotiate with local government (e.g. city, economic development authority or housing and redevelopment authority). Need approval of governing body after public hearing.	At least 90% of the subsidy must be used to finance the cost of correcting the substandard conditions (i.e. removing the blight).	Minn. Stat. §§469.174–1794
Minnesota Housing TIF District	Up to 100% of incremental real estate taxes created by the project for up to 25 years.	Available for rental and for-sale residential projects. No more than 20% of building(s) assisted may consist of nonresidential uses.	Must negotiate with local government (e.g. city, economic development authority or housing and redevelopment authority). Need approval of governing body after public hearing.	Rental projects must satisfy the LIHTC tenant income limitations for 25 years. At least 95% of for-sale units must be initially bought by persons whose family incomes are less than 115% of the applicable median income.	Minn. Stat. §§469.174–1794
Minnesota Economic Development TIF District	Up to 100% of incremental real estate taxes created by the project for up to 8 years. State portion of RE taxes for commercial-industrial properties is not available.	Available for manufacturing, warehousing, certain research & development, telemarketing, and tourism facilities.	Must negotiate with local government (e.g. city, economic development authority or housing and redevelopment authority). Need approval of governing body after public hearing.	Shortest TIF district duration so subsidy amount is limited.	Minn. Stat. §§469.174–1794
Minnesota Tax Abatement	Works like a tax rebate. Unlike TIF, benefit is not limited to incremental portion of taxes created by project. Rebate may be up to 15 years (or 20 years if one of the other political subdivisions does not agree to rebate taxes).	Very flexible. Abatement must (i) increase or preserve tax base, (ii) provide jobs, (iii) help acquire or construct public facilities, (iv) help redevelop or renew blighted areas, (v) help provide access to services for residents, (vi) finance or provide public infrastructure, (vii) phase in a property tax increase, or (viii) stabilize the tax base.	Unlike TIF, must negotiate with city for abatement of city portion of RE taxes, and separately with county for abatement of county portion. (Could negotiate with school district for abatement of school district portion of taxes, but because of the school funding system, school district very unlikely to abate.)	Cannot abate taxes while property is in a TIF district.	Minn. Stat. §469.1813