

NMTC Statute

Sec. 45D New markets tax credit

TITLE 26, Subtitle A, CHAPTER 1, Subchapter A, PART IV, Subpart D, Sec. 45D.

STATUTE

(a) Allowance of credit

(1) In general:

For purposes of section [38](#), in the case of a taxpayer who holds a qualified equity investment on a credit allowance date of such investment which occurs during the taxable year, the new markets tax credit determined under this section for such taxable year is an amount equal to the applicable percentage of the amount paid to the qualified community development entity for such investment at its original issue.

(2) Applicable percentage:

For purposes of paragraph (1), the applicable percentage is -

(A) 5 percent with respect to the first 3 credit allowance dates, and

(B) 6 percent with respect to the remainder of the credit allowance dates.

(3) Credit allowance date:

For purposes of paragraph (1), the term “credit allowance date” means, with respect to any qualified equity investment:

(A) The date on which such investment is initially made, and

(B) Each of the 6 anniversary dates of such date thereafter.

(b) Qualified equity investment:

For purposes of this section;

(1) In general:

The term “qualified equity investment” means any equity investment in a qualified community development entity if -

(A) Such investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash,

(B) Substantially all of such cash is used by the qualified community development entity to make qualified low-income community investments, and

(C) Such investment is designated for purposes of this section by the qualified community development entity. Such term shall not include any equity investment issued by a qualified community development entity more than 5 years after the date that such entity receives an allocation under subsection (f). Any allocation not used within such 5-year period may be reallocated by the Secretary under subsection (f).

(2) Limitation

The maximum amount of equity investments issued by a qualified community development entity which may be designated under paragraph (1) (C) by such entity shall not exceed the portion of the limitation amount allocated under subsection (f) to such entity.

(3) Safe harbor for determining use of cash

the requirement of paragraph (1) (B) shall be treated as met if at least 85 percent of the aggregate gross assets of the qualified community development entity are invested in qualified low-income community investments.

(4) Treatment of subsequent purchasers

the term “qualified equity investment” includes any equity investment which would (but for paragraph (1) (A)) be a qualified equity investment in the hands of the taxpayer if such investment was a qualified equity investment in the hands of a prior holder.

(5) Redemptions

a rule similar to the rule of section [1202\(c\) \(3\)](#) shall apply for purposes of this subsection.

(6) Equity investment

the term “equity investment” means -

(A) any stock (other than nonqualified preferred stock as defined in section [351\(g\)\(2\)](#)) in an entity which is a corporation, and

(B) Any capital interest in an entity which is a partnership.

(c) Qualified community development entity

for purposes of this section -

(1) In general

the term “qualified community development entity” means any domestic corporation or partnership if -

(A) The primary mission of the entity is serving, or providing investment capital for, low-income communities or low-income persons,

(B) The entity maintains accountability to residents of low-income communities through their representation on any governing board of the entity or on any advisory board to the entity, and

(C) The entity is certified by the Secretary for purposes of this section as being a qualified community development entity.

(2) Special rules for certain organizations
the requirements of paragraph (1) shall be treated as met by -

(A) Any specialized small business investment company (as defined in section [1044\(c\)\(3\)](#)), and

(B) Any community development financial institution (as defined in section 103 of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702)).

(d) Qualified low-income community investments