NOVOGRADAC
Tax Credit Tuesday™
Summary: April 25, 2023

Year 30 and Beyond: What LIHTC Owners Need to Know About the End of the Extended-Use Period

Federal law generally requires low-income housing tax credit (LIHTC) properties to remain rent restricted and only available to low-income tenants for a minimum of 30 years. This period of required affordability beyond Year 15 is called the extended-use period. Some states extend the affordability period even longer. As more LIHTC properties reach or approach Year 30, Michael Novogradac, CPA, and Novogradac partner Chris Key, CPA, discuss four common options for LIHTC owners at Year 30, including the benefits, considerations and challenges of each.

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Transcript

Introduction

[00:00:10] **Michael Novogradac, CPA**: Hello, I'm Michael Novogradac, and this is Tax Credit Tuesday. This is the April 25th, 2023, podcast. Before we begin today's podcast discussion, it's with a truly heavy heart and deep, deep sadness that I share news with the passing of our valued friend and colleague Bob Ibanez. He passed away on April 19th.

Novogradac was honored to count Bob as one of our own for the past five years. In fact, Sunday, April 16th, had marked Bob's fifth anniversary with Novogradac. As a senior manager at Novogradac's Public Policy Group, he worked with numerous new markets tax credit and community development financial institutions clients over the years.

Many of us, including me first got to know Bob during his 13 years at the CDFI Fund, which did include six years as program manager of the new markets tax credit and Bank Enterprise Award programs. Bob had a tremendous gift of connecting with others and the community development field is infinitely better for him having been part of it.

As we all collectively process the loss of our dear friend and colleague, we at Novogradac will endeavor to carry on Bob's legacy and continue pursuing the worthy community development goals we shared with him.

And in that spirit, we'll turn back now to our scheduled topic of the week.

In this week's episode, we're discussing a topic that affects all low-income housing tax credit property owners and renters: Year 30. So what is Year 30? Well, to answer that question, I'll provide a little more context for listeners who are new to the low-income housing tax credit. The low-income housing tax credit is the largest source of federal funding for developing and renovating a affordable rental housing.

Since Congress created the low-income housing tax credit in the Tax Reform Act of 1986, this incentive has financed more than 3.4 million housing units. Now, the low-income housing tax credit is a public-private partnership. In exchange for federal tax credits and oftentimes state tax credits, private real estate developers agree to build or renovate housing that's rent restricted and only available to low-income tenants.

Now, the tax credit is generally, and for the most part, claimed ratably over 10 years, and there is an initial tax rate compliance period of 15 years. The end of the tax credit compliance period is called Year 15. So back to our original question, what's Year 30? Well, Year 30 is generally the end of the minimum term of rent and income restrictions.

Federal law generally requires low-income housing tax credit properties to remain rent restricted and only available to low-income tenants for a minimum of 30 years. This period of required affordability beyond Year 15 is called the extended-use period. Some states extend the affordability period even longer. That's why we've called this episode Year 30 and Beyond. It's not the Year 30 episode, it's the Year 30 and Beyond, but we have an example in terms of a longer affordability period. California requires a 55-year extended-use period. So why are we talking about Year 30 now?

Well, Year 30 is a hot topic, and that's because the 30-year federal extended-use period was established as a general matter for properties placed in service in the year 1990 or later. How long ago was 1990? Thirty-three years. So that means there's a wave of those early low-income housing tax credit properties that are now approaching or at Year 30.

In fact, according to a National Low Income Housing Coalition report back in 2018, there will be nearly half a million affordable rental units reaching Year 30 between the years 2020 and 2029. Now whether your property is at Year 30, or even if you're 10 to 15 years away from the end of your extended-use period, you as the property owner should know the various options available to you when the affordability requirement ends.

In today's podcast, we're going to discuss those options as well as some of the benefits and challenges of each to do that. Joining me in today's podcast is my partner, Chris Key. Chris is based in Novogradac's Metro Atlanta office. Chris is an experienced tax accountant and auditor. He works extensively with low-income and market-rate real estate developers with a specialty in low-income housing tax credit credits.

Chris is also a frequent speaker at Novogradac and other industry conferences and trainings. He's also a technical editor of the Novogradac Journal of Tax Credits. I'm really excited to have as our guest today, if you're ready, let's get started.

[00:05:11] **Michael Novogradac, CPA**: So Chris, welcome to your first guest appearance on Tax Credit Tuesday.

Hopefully this is going to be one of many.

[00:05:19] **Chris Key, CPA**: I hope so as well, Mike. Thanks for having me.

Year 30 Overview

[00:05:22] **Michael Novogradac, CPA**: So let's start with a basic overview of Year 30. I shared the main concept in my introduction, but I wanted you to take a few moments to share your thoughts on why low-income housing tax credit property owners should be thinking about Year 30 now.

[00:05:36] **Chris Key, CPA**: Yeah, Mike. As a property owner, Year 30 is very important because it is, as you discussed, the minimum the year in which affordability restrictions come to an end for federal purposes. With the low-income housing tax credit becoming permanent in 1993, this year is when the properties will be hitting Year 30.

So this is going to become a very important topic for the industry. So some more background, Year 30 and the extended use requirement, starting with the allocations of tax credits after 1989, a building can only be allowed credits if an extended low-income housing agreement is in place. That extends the affordability restrictions for at least 15 years after the close of that 15-year compliance period that we discussed.

The agreement that is in place between the owner and the state credit agency is commonly referred to as a land use restrictive agreement, or the land use restrictive covenants. We typically call those LURA and this may be an agreement that as an owner you have not looked at in a very long time.

Typically in Year 15 is when it becomes a hot topic. It's what you want to do at Year 15. We'll touch on that a little bit later, but you probably as the owner have not looked at your land use restriction, restrictive agreement since Year 15. So owners must be very familiar with this agreement as it provides a number of important requirements.

And a few of those are the low-income occupancy percentage. So this is important cause over this affordability period, this is the occupancy percentage that the property has to be operated at, of throughout that extended-use period. So through the minimum of Year 30. Another important part of this, agreement is the agreement is binding.

So as the owner, if you were to sell the property, or if you're a new owner of the property that came in after Year 15, this agreement is still binding throughout the minimum set-aside. So basically, if the owner sells, the property agreement stays in place through the period. And, and then lastly, the more important items in this agreement is that it may contain a date of which the extended-use period ends.

So the extended-use period begins on the first day of the compliance period, and then it ends on the latter of the date specified by the state agency and the extended use agreement or the date, which is 15 years after the close of the compliance period. So there's two dates there that you need to be very familiar with as the owner.

And yeah, as you mentioned, the minimum extended-use period is for additional 15 total in 30 years. This is a federal requirement, so that's the key. That is a federal requirement. States can extend these timeframes, as you mentioned in the opening in that the California extended-use periods for 55 years.

Well, Vermont has an even longer affordable period for their 9% deals. You must commit perpetually. So it lasts for the entire length of the property, perpetually. And that is for 9% deals. Other states, they

actually incentivize longer periods in their qualified allocation plan. So as an owner, when you applied for your credits in Texas, you had the option to be awarded additional, points in the scoring system.

If you extended your minimum use period up to 45 years, Virginia, you can actually extend it up to 50 years.

[00:08:53] **Michael Novogradac, CPA**: So thank you for that and I appreciate your focus on the land use regulatory agreement or LURA, or as you point out, there's other names that goes by and it's probably a good time for you to make an overall caveat to our listeners. We're talking about are, generally speaking, the federal minimum requirements. And there can be additional requirements as part of the whole competition process and or threshold requirements and the rest. So it is critical, as Chris mentioned, that you review the LURA for the property so you have a good understanding of what you've committed to and what restrictions are in place. Because as Chris also noted, it does get recorded against the property so it carries with the property to new owners. So with that caveat, I did mention in the introduction that Year 15 is dean of the tax credit compliance period. And that basically means you claim the credits generally over 10 years, and then you, you run the risk of recapture during the tax rate compliance period at the end of Year 15. The potential for recapture of tax credits in Year 16 or later has gone away. But this land use regulatory agreement continues in place as a general rule, and we at Novogradac have been dealing with this issue for many, many, many years.

Roughly 15 years, right? A little bit longer because it, you have that issue with '87, '88, '89 properties as well, and never got as such as many resources on Year 15 issues such as our Novogradac Year 15 Handbook. We also have on-demand webinars, and I'll link to both the Year 15 Handbook and the on-demand webinars in today's show notes.

[00:10:29] **Michael Novogradac, CPA**: But this isn't a Year 15 podcast. This is a Year 30 podcast. So there are some key differences between Year 15 and Year 60. They also overlap in terms of the issues. So Chris, maybe you could describe some of the differences between Year 15 and Year 30 issues for property owners.

[00:10:46] **Chris Key, CPA**: Yeah. Yeah. Thanks Mike. Yeah, Year 15 is a very important period and if you remember back, you know, it seemed like 10 years ago it became such a hot topic. Everyone in the industry was talking about Year 15, what it meant. And, you know, and I feel like Year 30 of got, pushed it back. No one really spoke about it because everything was about Year 15.

So, to me the big one is Year 15, the property still continues to operate as an affordable property. It still has another 15 years to operate as an affordable property. After that time period, the other key thing about Year 15 is there are methods available, typically around Year 14.

And we'll discuss the qualified contract where the owner can end the affordable restrictions and the extended-use period through what is called a qualified contract. That's one area where the extended-use

period could end, and the other is through foreclosure. So at typically at Year 14, the owner moves forward with the qualified contract and they begin, the state agency will, they will begin marketing the property after a qualified contract price has been determined.

[00:11:54] **Michael Novogradac, CPA**: I'll maybe just, interject there briefly in terms of the qualified contract. You know, as you know Chris, but, and I know you were going to mention this, but maybe before we go through the qualified contract, it might make sense to say this kind of at the beginning.

Many states waive the requirement for a qualified contract that you're building exercise a qualified contract. California, for instance, has done that. So a number of states, you can't actually, you don't have the option for a qualified contract exit. Many other states give you incentives as part of the application process to waive it such that you end up waiving it.

So this does deal with a subset of tax credit properties. but it is something that many owners will be looking at in Year 15. And I would just note that when they do look at qualified contract in Year 15, it's not always about raising rents to increase the value of the property. Oftentimes it can be eliminating all the compliance requirements associated with it.

So it's actually reducing operating expenses that actually can further support the ability to continue with the properties at restricted rents to low-income families. That is a general sort of over overarching comments about the qualified contract. Please continue with respect to those situations when qualified contracts are pursued, how the steps work.

[00:13:09] **Chris Key, CPA**: Yes. And, once the qualified contract process is begun the property then converts to market-rate property. The key is that there are protections in place for the tenants at this point. There is a three-year period where the tenants, where the property is transitioned and the tenants are made aware of that the potential for rents to be increasing after a three-year period.

And during this time, the owner cannot without good cause, evict any tenants at this time. So there's proper notice to be given to those tenants at this time.

[00:13:44] **Michael Novogradac, CPA**: I would just say sometimes that's referred to as the three-year vacancy decontrol period where the existing tenants still have rent restrictions for the three-year period. Continue, please.

[00:13:55] **Chris Key, CPA**: Correct. That's, that's exactly correct, Mike.

Also at Year 15, the limited partner has typically exited the partnership at this time, and they have sold their interest or has been purchased by the general partner or the owner.

At this time, the limited partner has received their tax credits. The property has completed a compliance period at this time, so that's a really big key for at Year 15. What typically happens at the end of the

extended-use period, the affordability restrictions have expired for federal purposes. The program requirements have been satisfied in a property exiting the program.

For most states, there are no protections at this time for tenants. An owner could potentially increase the rents on the tenants, except there are some differences. Some states do have protections in place, and one of those is California. For California, for properties where the extended-use period expires after January 1st, 2021, the owners must give a tenant-three year notice. So three years, no. So at Year 27, an owner in California must give notice to the tenants of expiring restrictions, for their rent, for their affordable rents. And these notices have to be posted in accessible locations on the property, so they're seen by all tenants. Also, any prospective tenants that are moving in at this time moving into the property, they are to be made aware of potential for rents to be increasing.

At that time, at the end of Year 30, Oregon is another state that has similar advanced laws. But again, this is not that common throughout most states. And so those, those are really the key differences between Year 15 and Year 30. Year 30, the program requirements have been satisfied.

There are options that the owners will have. We'll discuss those a little bit later. At Year 15, there are options, but the property must stay in the affordable restrictions unless it goes through the qualified contract process or through foreclosure.

[00:16:05] **Michael Novogradac, CPA**: So thank you for that, Chris, and thanks for letting me, kind of speak over you there for a moment just to provide, background and qualified contracts. I appreciate that. You're a kind guest.

So we've, you've given a bit of an overview on Year 30 versus Year 15. And I would just note that you know, many times the Year 30 owner may not be the original developer. It could be someone who bought the property, you know, after Year 15 as part of that investor exiting it after Year 15.

But oftentimes, it's, it is the original developer with the investor having exited the property already. So now let's, move on to the options available to owners, at the end of the extended-use period. So if you could start by listing the main options and in preparing for this I think you identified four main options for owners, and after you describe the four main options, we could then discuss the benefits and challenges of each one.

Four Common Options at Year 30

[00:17:00] **Chris Key, CPA**: Okay. Yes. there are four of the most common options that, that we are, that we have seen and these are available to the owners are do nothing. Pretty simple, do nothing, maintain affordability without tax credits. The next option is to resyndicate with tax credits. As the owner, you had a lot of fun with this, so you want to resyndicate again with tax credits.

The third option is to convert the property to market rate. And then the fourth option, that we see is sell the property.

[00:17:30] **Michael Novogradac, CPA**: So thanks for listing out those four options. Let me just repeat them. For the listeners, one is do nothing. Do nothing different, just keep maintaining affordability. The second is resyndicating, which basically means maintain affordability, but go in and get additional allocation of tax credits, which can generate additional equity.

The third is convert to market rate. And then the fourth you mention is sell. And if you sell, then the buyer is going to do one of the first three things. The buyer is most likely either going to do nothing, they're going to resyndicate or they're going to convert to market. So at some level, the sell is more who's going to own the property, and then one of the owners of the property is going to do one of those three things or using some other, you know, some other incentive or there's a lot of other ways in a lot of other potential access strategies from 501 bonds to the rest. So I can't go into all the various options. . We're focused on, you know, kind of four basic ones and our listeners should feel free to reach out to Chris, and/or email me if you find yourself kind of approaching Year 30 and wanting to think a little bit more broadly than these four, but there's only so much time on this podcast.

So now let's go over each of these four and let's start with the do nothing. So like an option of doing nothing seems like, like, but maybe you could talk about the, you know, when the option of doing nothing makes sense for the owner.

Option 1: Do Nothing

[00:19:02] **Chris Key, CPA**: Yeah. And, and you know, it sounds so simple just to do nothing. And typically where, where we see this option utilized is if the property is performing well. The reserves are properly funded, the property is breaking even, and it's in a good market. We typically see this from nonprofit owners. Maybe they're mission-driven owners and/or preservation-type owners that want to keep the property at the same rents that were in place during the affordability period. They're concerned about the inventory of affordable units available at this time. So, to help with the demand of needing affordable housing they keep the property operating as it is. This is a great benefit to tenants as well. They do not have to worry about relocating, especially in areas where market rents may have increased, and maybe not all rents at this time are affordable. So the owner will let the property continue with the affordability restrictions for the foreseeable future.

The other option for for-profit developers, the property location at this time will, the market will play a big role in determining whether they continue operating as the same way, kind of, it's the same determination that they make is based on how the property is performing at this time.

So they can continue based on their due diligence, they can continue operating it as is, for, for the foreseeable future.

[00:20:29] **Michael Novogradac, CPA**: Yeah, I think implicit in your kind of discussion of the options is, you know, are or are not the units now being rented at levels that are notably below market rents? And we are now 30-plus years since the original design of the property and the rest and there's certainly going to be properties out there where the rents aren't that far below market based upon the age of the property and competition and how the economy itself has done over the last 30 years and the rest. And in those situations where market rents are higher, you know, many mission-driven owners are still focused on the mission of providing affordable housing.

So they're not interested in raising the rents to market. And you did note, as part of the do-nothing scenario, you kind of said you dealt with the situation where the property has positive cash flow. You know that it's probably been through a refinancing potentially since the 30-year permanent loan's been paid off.

At that point in time there's potential for refinancings and the rest, but those usually happened earlier because usually the initial loan had to be, had to be refinanced well before Year 30. But you were talking about adequate reserves and, and cash flowing. And the rest. Well, the second option is resyndication that you mentioned, and that deals with the scenario where you want to keep the property rent restricted, but you do have capital needs.

Maybe you could talk a bit about what resyndication entails and when resyndications the right option for an owner.

Option 2: Resyndication

[00:22:09] **Chris Key, CPA**: With resyndication the property at this point has some rehab needs that need to be completed. There's some capital needs, maybe it's a new roof or maybe it's more than that. Maybe the units need to be repainted. So at this point, the property is 30 years old.

There's probably needs that need to be done, and the option is to resyndicate. When you resyndicate, you're going back through the process again where you would, where the owner will submit an application for tax credits. They enter into a new agreement with the state housing agency, that land-use restriction agreement that we've discussed, which in turn, will restart the extended-use period, and it stands up for the period again for a minimum of 30 years.

This not only benefits the tenants because they actually had the affordable rents, but also benefits the owners of the property at this time because those significant renovations can be paid for with proceeds from selling tax credits. There could be another limited partner that enters the deal. And that equity that has contributed to purchase the, purchase test can be used to complete those significant renovations that are needed at that time.

And so that's what we typically see when a owner resyndicates, at any point after Year 15. But after Year 30, you're basically starting to process all over again and extending the minimum- use period for another 30 years at a minimum.

[00:23:36] **Michael Novogradac, CPA**: Yeah. So thanks for that Chris. And I will note that to our listeners, most recent syndications are done through private-activity bonds. The 9% credits themselves are pretty highly competitive, so most resyndications are not done through the 9% competitive allocation. They're done through private-activity bonds and 4% credits. And there's a variety of reasons for that, and I won't go into that here. I will link to an earlier podcast on resyndications through 4% credits.

I will also note that, you know, in some states like California is, there was a lot a period of time when a lot of resyndications were done with private-activity bonds. And then California passed the state tax credit that then could provide some of the financing gap that you would have if you wanted to use productivity bonds at 4% credits for new construction and, and then the ability to do resyndications waned.

But now with rising project costs and the rest, the question becomes will the demand for private-activity bonds for new construction be as strong as it's been in the past? And if not, it could create some avenues for the resyndication so just think about that. If you're listening and you're thinking of resyndication, you have to look at the state that you're in and see how competitive you could be in terms of generating the necessary financing to fund a resyndication.

But with that, I want to go to the third option, which is where you seek you, you seek to end the rent restrictions and commitment to rent units to low-income families and commonly thought of as converting the property to market rate. And I will note the caveat that you do need to look at your extended-use agreement, as I mentioned earlier, to see what rights you do and don't have.

You also need to look at local and state laws in terms of what you can and can't do in terms of changing rents and raising rents and the rest. But with that is a general caveat. What are some other considerations or maybe even within those considerations, additional advice you have that owners should think about before going down the convert to market-rate route?

Option 3: Convert to Market Rate

[00:25:39] **Chris Key, CPA**: Yeah, and this kind of ties in to, to what you were just saying, as an owner, you just increase rents. The first item that the owner needs to determine is whether they can increase rents, and as we discussed, it depends on the state the property's located. So as you said, Mike, make sure you're very familiar with the requirements for the state that the property is in, especially if you're a multi-state owner that has properties.

Just because you have a property that's done certain way in Georgia doesn't mean it's the same way in California. So be very familiar there. And for federal purposes, there is not a required transition period for the tenants. But some states do require a transition period, which is what we discussed earlier as well.

And so just again, be familiar with what state you're in as far as increasing or keeping the rents the same. The other part is be very familiar with agreements, your loan agreements, and we'll touch on this a little later as well, but your loan agreements may determine as well if you can increase the rents, back in the beginning when you, as the owner, acquired maybe some soft debt there may be affordability requirements built into those agreements. So be sure that you're very familiar with all your agreements as they may require longer affordability periods. So we'll discuss some of those examples as well later in our discussion. The next is the impact on the tenants. Think about as an owner, the impact on tenants about potentially moving to market rate, maybe this is the most important item to consider, is the impact. Would the tenants be able to afford the increase in rents in the market that the property is located? Are there programs that the state has available to assist with relocation or vouchers?

Not all states require a notice, as we discussed, but we do recommend the owner at least giving some notice, even if it's not required by the state that the property is located. We are seeing now that states are beginning to adopt requirements that require notice to be given to states.

[00:27:44] **Chris Key, CPA**: And as this topic gets more and more momentum going, which we feel as a firm, we will I think we'll start seeing a lot more changes with the states requiring helping of the tenants or the states, creating avenues to help tenants as properties exit and get closer to Year 30. And then the last option owners need to be aware of is their relationship reputation with allocating agencies. Owners should also be concerned about how, you know, converting to a market-rate property could affect their relationship with future allocations. Year 15 became such a hot topic, mike, you may remember.

[00:28:23] **Michael Novogradac, CPA**: Yes, I did.

[00:28:24] **Chris Key, CPA**: A number of years ago, and states kind of reacted later, about trying to keep the, basically trying to preserve the amount of affordable properties.

And so, items were written into the qualified allocation plans about receiving additional points for the allocations or, as some states, they have gone even as far as if you've gone through, maybe as a qualified contract, you can no longer get a future award. That's Virginia. Virginia, they have a requirement now if you submit a qualified contract, you're no longer eligible for future awards.

So I, I feel we'll start seeing something very similar with the Year 30 as well. But there's definitely a distinct trend amongst agencies in the last few years to discourage qualified contracts, and I feel like

most developers are aware of that, the potential reputation of taking affordable properties and converting to market rate.

[00:29:18] **Michael Novogradac, CPA**: Great. Thank you for all of that, Chris. I really appreciate the fact that you pointed out that. Many tax credit properties don't just have their tax credit agreements limiting your ability to raise rents that limit what types of tenants are eligible to occupy the property and the rest so that you can't, there's a lot of other types of financing that could be in place, that could have longer compliance terms and the rest.

So in addition to reviewing the LURA, you also need to be reviewing any other agreements that are in place from debt agreements too, if you have any type of, rental support agreements, make sure that you're reading all those different agreements to see what limitations there are on the property. So let's move on to the fourth option, and that, as you noted, is to end your ownership and sell the property.

So what are some thoughts you have for owners in terms of what they should be considering and going down the potential path of selling the property?

Option 4: Sell

[00:30:16] **Chris Key, CPA**: Yeah, and, and at this point, the owner has completed his due diligence and decided to sell the property. They typically have a couple of options at this point. Do they want to sell to a preservation owner? Maybe it's another affordable housing property owner that is looking to add to their portfolio. The preservation owner would keep the property, operate it as affordable during the affordable restriction period, or continue operating as affordable.

Or they would, like you said, Mike, go through the 4% credits and make renovations. Do an acquisition/rehab-type property and extend affordable protections for at least another 30 years. So there's that option of selling a property. And then the owner also could sell to another owner that maybe that owner is going to use one of the other three options.

They're going to keep it at an affordable rate, or they may convert the properties to market rate. Again, it all is kind of based on the market that a property's located in. So the for-profit owner could also resyndicate the property as well and keep it in the affordable housing program.

[00:31:27] **Michael Novogradac, CPA**: Yeah. Thank you for that. I mean, I do think it's incumbent on the-- if you're looking, going to go on the sale route to, once again, there's a theme here. Review your agreements.

[00:31:36] **Chris Key, CPA**: Exactly.

So thank you for that, Chris. Now, I think I know the answer to this question. At what point should owners start considering their options for Year 30 and beyond?

[00:31:47] **Chris Key, CPA**: Well, hopefully we're on the same page. I'm thinking Year 1, Mike. Is that when they should really start thinking about Year 30?

[00:31:54] **Michael Novogradac, CPA**: Yes.

[00:31:54] **Chris Key, CPA**: You know, and as the owner, when the, you're out looking for the land, you need to be thinking about what happens at the end of the affordability period, which is the 30 years long, is a 30-year period.

But, you know, 30 years is a long way. In the beginning, most of the negotiations are being had between the owner and the limited partners. The limited partners are really more concerned about the tax credit period, which is that 10-year period and then the 15-year period. Normally by Year 15, the limited partners have exited and the general partner or the owner is owner of the property.

That's all negotiated to be around Year 15. Maybe a little sooner, a little later. But again, 30 years is a long time away. The owner will need to have a plan in place. I would say around Years 14 and 20. Year 14, Year 20, at around Year 15, the owners, the property probably needs some type of small renovations at that time.

As the owner, are you going to renovate at that time and maybe go through those options we discussed earlier? Are you going to resyndicate? If you are still holding onto the property through Year 30, those decisions need to be made like again already before Year 20 on what you're going to do for the next 10 years.

At that time, things still can change over the next 10 years, but at least there's a plan in place on what to do when Year 30 gets there, because it's never too soon to start planning, especially if you know that you're going to hold onto the property, maybe the market that the property's located has changed since the year one and it now it's turning into a more favorable market to convert to market rate.

Or maybe it's not. Maybe the property's performing great at the affordable rents and you decide to do it. But around Year 20, that's usually where we would recommend, to start thinking about what's going to happen in Year 30 because those 10 years go by really, really fast.

Other Restrictions

[00:33:50] **Michael Novogradac, CPA**: That they do. So earlier we talked about the potential for other requirements to be imposed on a property from a rent restriction, occupancy, and other limitations on operations beyond low-income housing tax credit requirements.

Maybe you could give some examples, you know, beyond debt agreements that could have additional restrictions or even if there's more you want to say about debt agreements.

[00:34:13] **Chris Key, CPA**: Yeah, and you know, as an owner, the last thing you want to be doing is focusing mostly on your land use restriction agreement, and then getting to the point where you have a plan in place, like we just discussed, the plan has been decided and then, you know, your consultant or your accountants, look and you have a loan agreement with the state or maybe a local housing authority that requires another 55 years of affordable restrictions in place.

And so, as the owner, you want to make sure, you know, we touch on this a lot and make sure you're very familiar with all the agreements in place and, you know, some, some examples of additional funding and soft debt. And again, these agreements may have been signed 30 years ago and you know, you may have to go try to find these.

They're probably paper files. They're not saved to the network, your network. HOME funds, they have additional, affordability restrictions, FHA loans, rural development. Those are also different programs that may have extended affordability requirements that allowed for lower interest rates or maybe allowed for additional funding.

And so again, those are kind of examples that we see a lot. But we do recommend as an owner to be very familiar with those agreements. You know, even if it's after you listen to this podcast, get them and, and look through them to make sure there's no surprises that you're going to have. And it, it may be a small loan as well.

There's really not a materiality to these loans. It may be a small self-debt loan. But again, to get those maybe lower interest rates you signed on for another additional time period for the property to be operated with affordable restrictions.

[00:35:54] **Michael Novogradac, CPA**: So thank you Chris for that. And maybe you could now share with clients or listeners, I should say, what you're doing to help clients navigate their options at the end of the extended-use period.

Resources and Services

[00:36:06] **Chris Key, CPA**: Yes, definitely. The discussions have really picked up this year. I started receiving some questions from clients and where we are really helping for the consulting, we're helping with questions and you know, a lot of the things that we discuss on this podcast we discuss with our clients.

One of the main things is, conducting a portfolio assessment, having a list of properties that the client is, that is past Year 15. And going through, we can help review their agreements, we can give an extra set of eyes for the clients to go through. And we're very familiar with a lot of these agreements as well, so we kind of know what to look for.

[00:36:42] **Chris Key, CPA**: So consulting has been big, but we're also not just consulting with the owners, we're also consulting with state housing agencies. This is now on state housing agency, on their radar and our public policy group is, is helping a lot in that area. As well, try to get out in front of these next 10 years. You know, as we talked about, there's what, I think it was like half a million. No, it was, over half a million affordable rental units will be exiting the program between 2020 and 2029. And you mentioned that in your introduction, Mike. So the states want to get out in front of this. As an industry we do as well. We want to preserve as many units as we can.

The other area is the state outlook. Each state's different. Each state has different requirements and not all follow the federal requirements. We, as a firm, have offices in multiple states. We have experts in each state. So just cause I'm in Georgia and you have a property in California. We have a partner that, or some more in California that is very familiar with the state of California, so we can help there as well. So that's really the big areas of consulting. We also, can help with the due diligence as the owner when we were discussing the option to sell.

We can help run financial forecast to determine, does it make sense for an owner to resyndicate or does it make sense to sell the property? We can help there. And then finally, Mike, is the market studies. Our market studies in our GoVal group can help there to determine rent for the area.

Maybe as an owner, you haven't even looked at the rents in the last 10-plus years. And we can do a rent analysis as well. So as a firm we can, we can help you in a lot of different areas.

Exit

[00:38:27] **Michael Novogradac, CPA**: So thank you for that. Chris. to our listeners, I'll just remind you Chris Key has been our guest today, and I will include his contact information, today's show notes so you can reach out to him with specific questions.

And I do encourage you, Chris, I encourage you, I ask you to stay around far Off-Mike Section where I'm going to get to ask you some, questions to get some, off-topic recommendations and or words of wisdom from you. And to our listeners, I encourage you to tune into next week's podcast. I'm going to be discussing one of the hottest topics right now among those involved in renewable energy tax credits and that you may be familiar with, is the transferability of energy tax credits that was enacted as part of the Inflation Reduction Act last year. The concept of transferring energy tax credits. And even though we're still awaiting detailed guide from the IRS on specifically how that'll work, we can discuss how transferability compares to more traditional renewable energy tax credit monetization structure. Developers, project sponsors, investors and syndicators of energy tax credits are all asking us about the benefits, the pros and cons, if you will, of transferring energy tax credits through this transfer provision.

They're also wondering what their roles are in the process, kind of how it'll play out. So we're going to cover some of the frequently asked questions that we at Novogradac are getting about transferability,

including questions about ways to assess equity pricing, and economic benefits and the like of traditional monetization structure versus transferability.

There are a lot of questions that are unanswered that we're waiting for guidance from the IRS. That doesn't keep us from having to analyze it now. So as we get the guidance, you're in a position to act quickly. To that end, my guest next week to discuss transferable energy cash credits is going to be my partner Josh Morris.

And by the way, if you do have any questions that you think we should cover in that episode next week, please send an email to cpas@novoco.com. And I encourage you to send it right away so we can incorporate it into the podcast.

Off-Mike Section

[00:40:36] **Michael Novogradac, CPA**: Now I'm pleased to reach our Off-Mike Section, and I get to ask Chris Key some non-directly tax credit-related questions, but maybe they'll end up informing some tax credit matters as well.

And I'm asking you this first question right at the end of tax season. So I'm going to suspect the answer or views that you have are going to be fresh in your mind. Give me an example of a useful productivity tip that helped you get through busy season, either that helped you work-wise or helped you domestically or outside of your work life?

[00:41:11] **Chris Key, CPA**: So, it may be kind of lame.

[00:41:16] **Michael Novogradac, CPA**: But if it works, it's not lame.

[00:41:19] **Chris Key, CPA**: It's worked for me for years, ever since I was a staff accountant. So, back in the day, I used a notepad. I used a notepad to keep track of my to-do list, and list a priority, and then, you know, as I aged a little bit, I felt like some of the staff were making fun of me for having a notepad still.

And so I've actually started using OneNote probably about four or five years ago. So OneNote, it's been amazing for me. There's so much more I can do with it but I set up tabs. I have tabs for priority items. It's readily available. I can save notes to it. So, there's so much more I think you can do with, I almost need a training on it because there's so much more I can do with it.

But I love OneNote and it helps me because it's in my face. As I had to set a priorities, I can go through and mark things off. So I get that kind of reward as well as I mark stuff off my to-do list. But you know, if I'm dealing with an issue for, say, an audit I'm reviewing, or maybe it's Year 30, I can copy and paste it into OneNote and it's there.

I can use it. So yeah. So my productivity item that I would love to share, is OneNote. It's amazing. It's very flexible so you can customize it to the way you want to use it. So that's a big key for me, Mike, is OneNote.

As you know, as a listener and regular listeners of the podcast, know I am also a big fan of OneNote and for all the reasons that you discussed.

[00:42:49] **Michael Novogradac, CPA**: And I would just also note what I, one of the features I like is it works across devices. So I can have it, I can take a note on my phone, I can take a note on my iPad or on my laptop. If I'm at a conference, I can be taking notes on the iPad and everything's syncing to the cloud and all and the like.

And I have access to them as well. So that, you know, cause I, for one, used to be big on the paper, but then like, where's the sheet of paper?

[00:43:16] **Chris Key, CPA**: Yeah, right.

[00:43:17] **Michael Novogradac, CPA**: Then you can search.

[00:43:18] **Chris Key, CPA**: Mm-hmm.

[00:43:19] **Michael Novogradac, CPA**: And on the iPad you can use cursive, you know, with the pencil. So anyways, I'm a super fan of, OneNote and I agree in terms of the productivity or training, if you will, because I know I'm not getting the full advantage of it. Maybe that's what you and I will maybe have a special podcast.

[00:43:38] **Chris Key, CPA**: Yeah, that sounds good.

[00:43:39] **Michael Novogradac, CPA**: We just talk about OneNote and how we use it to be more productive.

[00:43:43] **Chris Key, CPA**: Yeah.

[00:43:43] **Michael Novogradac, CPA**: I do have another question for you and when we are preparing for the podcast, I learned that you're getting ready to tackle a major goal, and I think it's this coming weekend, right?

[00:43:54] **Chris Key, CPA**: Yes. Yeah, it's, yeah. So, it's a big goal of mine. So it's called the Smoky Mountain Relay. It's a 200-mile relay race, that I have been wanting to do for a while. And I won't be running the 200 miles by myself. It's part of a team. And so it's a nine-man team and we start and just outside of Brevard, North Carolina, which is the Pisgah National Forest, and we run 30 hours, it's 200 miles, so it's going to be, hopefully we're not 35 hours, but it's usually around 27 or 30 hours. And then we end in Bryson City, North Carolina, just outside of Nantahala Outdoor Center. And it's a mix of

running on pavement, trail running. So it's supposed to be very scenic and hopefully we have some great weather.

Right now, I'm not sure, but I have a co-worker, Stephan Morgan. He's on my team. He did something similar last year, and then I had some other friends do it, and I knew this one was coming up back in October. And so I was like, I need to do something. I need something to, I need a goal to set.

[00:45:03] **Chris Key, CPA**: I need something to motivate me through tax season to make sure that I'm not just sitting down all the time, which is easy to happen during tax season. So I started training in January, January the first, and, got up super early to get up and run, with some buddies of mine. And, you know, set that goal.

And so I've trained as much as I can. There's nothing else I can do. So, getting up at, the race starts on Friday morning, about 4:00 a.m. and we, hopefully we'll be finished around noon to three o'clock on Saturday. For a nine-man team, I'll run. So we split it up between nine, so each person runs four different legs.

[00:45:45] **Michael Novogradac, CPA**: Okay.

[00:45:46] **Chris Key, CPA**: And so I'll, it'll probably be around 20, I think I run around 22 to 25 miles. but you run and then you're off, then you run, then you're off. So I've never done that. So, but yeah, it's exciting to hopefully accomplish this goal. So I'll let you know Monday how I survived.

[00:46:03] **Michael Novogradac, CPA**: Well, maybe, after you do this, you'll have to connect with our Portland office.

[00:46:08] **Chris Key, CPA**: Oh, yeah, yeah.

[00:46:08] **Michael Novogradac, CPA**: And our Seattle office, and put together a Novogradac team to run the Hood to Coast.

[00:46:15] **Chris Key, CPA**: Oh yeah. What's--

[00:46:16] **Michael Novogradac, CPA**: Yeah, to the coast of Oregon from Mount Hood. And that's, that's 200 miles too.

Yeah. I may have to, maybe that's the next one. Next year we'll do both coasts. So, but yeah, it's, I'm looking forward to it. I'm excited about it. Very good.

I wish you a great success, this Friday through Saturday and I'll look forward to, the partner call on Monday, hearing how it went.

[00:46:40] **Chris Key, CPA**: Okay, great. Hopefully I'm there.

[00:46:42] **Michael Novogradac, CPA**: I'm sure you will be!

[00:46:46] **Chris Key, CPA**: Thanks, Mike.

[00:46:47] **Michael Novogradac, CPA**: So thank you Chris. And to our listeners, I'm Mike Novogradac, thanks for listening.

Additional Resources

Email

Chris Key

Conference

Novogradac 2023 Affordable Housing Conference

Product

Novogradac LIHTC Year 15 Handbook - Premium