Subtitle C—New Markets Tax Credit

SEC. 121. NEW MARKETS TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits) is amended by adding at the end the following new section:

"SEC. 45D. NEW MARKETS TAX CREDIT.

"(a) Allowance of Credit.—In general.—(1) In General.—Subsection (a) 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 applicable percentage of the investment 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.

(b) Special Rules for Certain Organizations.—The requirements of paragraph (a) shall be treated as met by—

(1) any specialized small business investment company as defined in section 1204(c)(1), and

(2) 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.—For purposes of this section—

(1) in general.—The term 'qualified low-income community investment' means—

(A) any capital or equity investment in, or loan to, any qualified low-income community business, or

(B) the purchase from another qualified community development entity of any loan made by such entity which is a qualified low-income community investment, financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities,

(2) qualified active low-income community business.—The term 'qualified active low-income community business' means—

(A) in general.—For purposes of paragraphs (1) and (2), the term 'qualified active low-income community business' means, with respect to any taxable year, any corporation (including a non-profit corporation) or partnership if—

(i) at least 50 percent of the total gross income of such entity is derived from the active conduct of a qualified business within any low-income community,

(ii) a substantial portion of the use of the tangible property of such entity (whether owned or leased) is within any low-income community,

(iii) a substantial portion of the services performed for such entity by its employees are performed in any low-income community,

(iv) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles (as defined in section 108(b)(1)) and

(v) less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity is attributable to nonqualified financial property (as defined in section 1245(e)).

(B) proprietorship.—Such term shall include any business carried on by an individual as a proprietor if such business would meet the requirements of subparagraph (A) were it incorporated.

(C) Portions of Business May Be Qualified Active Low-Income Community Business.—The term 'qualified active low-income community business' includes any trades or businesses which would qualify as a qualified active low-income community business if such trades or businesses were separately incorporated.

(3) Qualified Business.—For purposes of this subsection, the term 'qualified business' has the meaning given to such term by section 1202(e), except that—

(A) in lieu of applying paragraph (2)(B) thereof, the rental to others of real property located in any low-income community shall be treated as qualified business if such property is improved by substantial improvements located on such property, and

(B) in determining the percentage under subparagraph (D) thereof, the rental of real property located in any low-income community, which is improved by substantial improvements located on such property, shall be treated as qualified business if such property is a qualified low-income community investment.
moved under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

(3) RECAPTURE EVENT.—For purposes of paragraph (3), there is a recapture event with respect to an investment in a qualified community development entity if—

(A) such entity ceases to be a qualified community development entity,

(B) the property of the investment cease to be used as required of subsection (b)(1)(B), or

(C) such investment is redeemed by such entity.

(4) SPECIAL RULES.—

(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.

(C) BASIS REDUCTION.—The basis of any equity investment in a qualified community development entity ceases to be subject to the new markets tax credit determined under section 45D(f)(1) for the period beginning on the due date for filing the return for the taxable year in which such event occurs.

(5) Limitation on carryover of unused limitation for any calendar year exceeds the aggregate amount allocated under paragraph (2) for such year, such limitation for the succeeding calendar year shall be increased by the amount of such excess. No amount may be carried under the preceding sentence to any calendar year after 2014.

(g) AUDIT AND REPORT.—Not later than January 31 of 2004, 2007, and 2010, the Comptroller General of the United States shall, pursuant to an audit of the new markets tax credit program established under section 450 of the Internal Revenue Code of 1986 as added by subsection (a), report to Congress on such program, including the following:

(1) the competitive procedure through which such allocations are made; and

(2) the use of such sums by the State housing credit agencies in the export of the new markets tax credit.