

10 RED FLAGS IN LIHTC DEALS

With the rapid increase of year-15 disputes and growing issues surrounding industry Aggregators, LIHTC developers should look out for the following “red flags” in their project partnerships — all of which are drawn from our collective experiences and knowledge of key industry issues. These potential events and/or circumstances, in our opinion, may indicate a problem is looming, and general partners should review their circumstances beginning no later than year-10.

- 1** Investor limited partner interests have changed hands from original investor limited partner. Is your partner today the same as the one you did your deal with at the beginning?
- 2** The investor limited partner interests are managed by and/or affiliated with organizations that have been involved in litigation concerning LIHTC project partnerships around year-15.
- 3** The investor limited partner has a large positive capital account and believes that it should be allowed to monetize the book entry through a “cash-out” process.
- 4** The investor limited partner starts talking to you about future planning, future values, future circumstances beyond year-15, like refinancing or re-syndication, as a means to generate proceeds to “buy them out” after year-15.
- 5** The investor limited partner undertakes efforts to restrict or limit use of reserve accounts and withholding approvals for project needs.
- 6** The investor limited partner begins to question otherwise routine financial reports, or suggests that a forensic audit of past events is necessary for some reason.
- 7** Exit negotiations stall or you experience periods of non-responsiveness from your investor limited partner.
- 8** Qualified Contract requests are suddenly presented.
- 9** Discussions concerning liquidation of the Partnership are presented.
- 10** You are not adequately familiar with your documents and/or are talking to or fielding questions from your investor limited partner about their exit.

For questions or to discuss, please contact:

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