

**Revenue Ruling No. 25-001****September 18, 2025****Insurance Premium Tax****Louisiana New Markets Jobs Act Tax Credit Program  
Qualified Equity Investment and Qualified Low-Income Community Investments****Purpose**

The purpose of this ruling is to address issues under the Louisiana New Markets Tax Credit Program ("LA NMTC Program") pursuant to La. R.S. 47:6016.1, utilizing a common fact pattern and transactions described herein. This Revenue Ruling analyzes whether certain investments and investment structures comply with program requirements.

**Facts**

In accordance with the LA NMTC Program, State CDE applied to the Department of Revenue ("Department") for an allocation of qualified equity investment ("QEI") authority under the LA NMTC Program. The Department awarded State CDE QEI authority in the amount of \$18,750,000 (the "Louisiana Allocation") by letter dated July 7, 2025 (the "Award"). State CDE is a qualified community development entity ("CDE") under Section 45D of the Code of 1986, as amended (the "Code"), and the related treasury regulations and guidance (collectively, the "Federal NMTC Program") and the LA NMTC Program.

**The Proposed Stacked Leverage Structure**

On August 4, 2025 ("Original QEI Date"), Company B made an equity investment in the amount of \$10,000,000 (the "Original State Investment") in State Investment Fund, and State Investment Fund used the proceeds thereof to make a QEI under the LA NMTC Program in the amount of \$10,000,000 (the "State QEI") in State Sub-CDE. With regard to State Sub-CDE, it is accepted as a matter of fact that:

1. State Sub-CDE is taxed as either a partnership or a corporation
2. the primary purpose of State-Sub CDE is to make, directly or indirectly, QLICs to QALICBs.
3. State Sub-CDE maintains accountability to residents of low-income communities

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through its representation on a governing board of or advisory board to the entity, and;

4. State Sub-CDE is certified by the Secretary of the CDFI Fund as a CDE under the Federal NMTC Program.

State CDE provided the Department with evidence of cash in exchange for such State QEI, a copy of the state qualified equity designation form that was issued to State Investment Fund, and notice of the transfer of \$10,000,000 of the Award to State Sub-CDE.

On QLICI Closing Date, State Sub-CDE intends to use 100% of the proceeds of the State QEI to make "qualified low-income community investments" ("QLICIs") into a "qualified low-income community business" ("QALICB") located in the State of Louisiana, indirectly, by engaging in the transactions set out below, in the order listed:

1. On or before the QLICI Closing Date, State Investment Fund will receive an equity investment from State Investor in the amount of \$2,860,000, in exchange for a 99.99% membership interest in State Investment Fund. The proceeds of State Investor's contribution, along with the proceeds of a \$7,140,000 loan made to State Investment Fund, will be used to make a partial return of Company B's Original State Investment in State Investment Fund and Company B will retain a 0.01% interest in State Investment Fund.
2. State Investment Fund's operating agreement provides for the special allocation of all LA NMTCs to State Investor, and State Investor's operating agreement provides for the special allocation of all such LA NMTCs to its members, directly or indirectly ("State Investor Members").
3. On the QLICI Closing Date, State Sub-CDE will use the proceeds of the State QEI to make loans to Federal Investment Fund, in the aggregate principal amount of \$10,000,000 (collectively, the "Indirect Loan"). As a condition of the Indirect Loan, Federal Investment Fund is required to use 100% of the Indirect Loan proceeds to fund a portion of an approximately \$14,000,000 QEI under the Federal NMTC Program (the "State/Federal QEI") in Federal Sub-CDE. Federal Sub-CDE is a qualified community development entity under the Federal NMTC Program.
4. The proceeds of the State/Federal QEI are kept and accounted for in a separate, distinct bank account of the Federal Sub-CDE to enable the direct traceability of all such proceeds.
5. Upon receipt of the State/Federal QEI, Federal Sub-CDE makes one or more loans to Borrower, a Louisiana nonprofit corporation, in an aggregate principal amount of approximately \$14,000,000 (the "Pelican QLICIs"), \$10,000,000 of which (the "State QLICIs") is made in accordance with the LA NMTC Program.

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Borrower uses the Pelican QLICs to acquire a long-term leasehold interest in certain land and improvements located at 1234 Main Street, Baton Rouge, Louisiana 70802 (such land and improvements leased to Borrower, together with certain related personal property leased to Borrower (if any), the "Property"), and to pay (directly or indirectly) costs related to financing, leasing, construction, and development of improvements to the Property (collectively, the "Project"). The Property will be used to operate a new health and wellness center for veterans. Upon completion of the Project, all of the Property (as improved by the Project) will be leased to and operated by Operator, a Louisiana nonprofit corporation, pursuant to an operating lease between the Borrower, as landlord, and Operator, as tenant (the "Operating Lease"). The Property, and all assets of Borrower, are located and identified under the CDFI Fund's Information and Mapping System as being in a low-income community for the purposes of Federal NMTC Program (the "Qualified Census Tract"). Borrower does not own any other assets outside the Qualified Census Tract and it does not engage in any services outside the Qualified Census Tract. The Property is located solely in Louisiana at all pertinent times. With respect to the Property, and as required by the Operating Lease, Operator is engaged in an industry assigned North American Industry Classification System ("NAICS") Code 624190. At all times during the period of time commencing on the QLIC Closing Date (or, if later, the commencement date of the Operator's leasing of the Property pursuant to the Operating Lease) and continuing until the seventh anniversary thereof, the Operator uses the Property solely for operations qualifying as a business engaged in an industry assigned a primary NAICS Code within sector 11, 21, 23, 31, 32, 33, 42, 48, 49, 54, 56, 62, 72, or 81 (each, a "Qualified NAICS Code"). Borrower has no employees. The number of employees of the Operator providing services in connection with the operation of the Property does not exceed the greater of two hundred fifty and the number of employees set forth for the Operator's North American Industry Classification System Code sector in 13 CFR 121.201.

#### QALICB Structure

Borrower is a special purpose entity formed as a nonprofit corporation to support the Operator and is engaged solely in the leasing, developing, and financing of the Property for use by the Operator in the operation of the Project. Borrower does not have any employees.

#### Redeployment

Upon the receipt of any capital returned to or recovered from the State QLICs, in order to avoid a recapture of the LA NMTCs, Federal Sub-CDE will reinvest an amount equal to the capital returned to or recovered from the original QALICB in Louisiana QALICBs in accordance with La. R.S. 47:6016.1(F)(5) of the LA NMTC Act in such amounts directly traceable to the State/Federal QEI.

#### **Law**

La. R.S. 47:6016.1 and Code Section 45D provide the following relevant definitions:

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“Impact business” – a QALICB located in Louisiana that is either located in a rural parish or in the recovery zone or is more than fifty percent owned by women, minorities, or military veterans.

“Purchase price”- the amount paid to the issuer of a qualified equity investment for such qualified equity investment.

“Qualified active low-income community”- has the same meaning as in Code Section 45D(d)(2) and Treasury Regulation Section 1.45D-1. Code Section 45D(e)(1) provides that a qualified active low-income community, in general, means any population census tract if-

- (A) the poverty rate for such tract is at least 20 percent, or
- (B)(i) in the case of a tract not located within a metropolitan area, the median family income for such tract does not exceed 80 percent of statewide median family income, or
- (ii) in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80 percent of the greater of statewide median family income or the metropolitan area median family income.

“Qualified active low-income community business” has the same meaning as in Code Section 45D of the Code and 26 CFR 1.45D-1. In addition, pursuant to La. R.S. 47:6016.1(B)(a), with respect to QEIs issued on or after August 1, 2020, a QALICB is also required to be engaged in an industry assigned one of the Qualified NAICS Codes and have total employees that do not exceed the greater of two hundred fifty and the number of employees set forth for the business's North American Industry Classification System Code sector in 13 CFR 121.201 (the "Employee Requirement")

Code Section 45D(d)(2)(A) provides that a QALICB includes a corporation (including a nonprofit corporation) or partnership that meets the following requirements:

- (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 a 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

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- 408(m)(2)) other than collectibles that are held primarily for sale to customers in the ordinary course of such business, 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 Code Section 1397C(e)).

“Qualified community development entity” – has the meaning given to such term in the Code; provided that such entity has entered into, for the current year or any prior year, an allocation agreement with the Community Development Financial Institutions Fund of the U.S. Department of Treasury (the “CDFI Fund”) with respect to credits authorized by the Code, which includes the state of Louisiana within the service area set forth in such allocation agreement. (Pursuant to La. R.S. 47:6016.1(E)(1)(c)(ii), this requirement shall be deemed satisfied if the allocation agreement has expired but was not revoked or cancelled by the CDIF and the applicant or its affiliates have received a prior certification of qualified equity investment authority pursuant to La. R.S. 47:6016.1 after August 1, 2020.) With respect to qualified equity investments issued on or after August 1, 2020, the term excludes any qualified community development that, together with its affiliates, has invested less than one hundred million dollars in Louisiana qualified active low-income community businesses or other Louisiana investments.

Code Section 45D(c)(1) provides that a “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 Code Section 45D(c)(1) as being a CDE.

“Qualified equity investment”-any equity investment in a qualified CDE that meets the following criteria:

- a. Is acquired after August 1, 2013, at its original issuance solely in exchange for cash or, if not so acquired, was a qualified equity investment in the hands of a prior holder.
- b. Has at least one hundred percent of its cash purchase price used by the issuer to make qualified low-income community investments (QLICIs) in qualified active low-income community businesses (QALICBs) located in this state by the first anniversary of the initial credit allowance date with respect to qualified equity investments issued prior to August 1, 2020, and after August 1, 2023.

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- c. Is designated by the issuer as a qualified equity investment under La. R.S. 47:6016.1(B)(10) and is certified by the Department as not exceeding the limitation contained in La. RS. 47:6016.1(E)(5).

“Qualified low-income community investment” – any capital or equity investment in, or loan to, a QALICB.

## **Analysis**

### Qualified Equity Investment

The capital contribution from Investment Fund to State Sub-CDE satisfies the requirements of La. R.S. 47:6016.1(B)(10)(a). Provided State Sub-CDE makes QLICs in QALICBs totaling \$10,000,000, including the Pelican QLICs, within twelve months of the original QEI date, such investment qualifies as a QEI irrespective of the fact that the Pelican QLICs will be made via the Indirect Loan, State/Federal QEI and State QLICs. The purchase price, as defined by La. R.S. 47:6016.1(B)(5) is \$10,000,000, the capital contribution by State Investment Fund to State Sub-CDE.

### Qualified Community Development Entity

To receive the Award, State CDE provided a copy of an allocation agreement entered under the Federal NMTC Program with the CDFI Fund that includes Louisiana within its service area. Additionally, it is established that:

- a. State Sub-CDE is taxed as either a partnership or a corporation.
- b. The primary purpose of State-Sub CDE is to make, directly or indirectly, QLICs to QALICBs.
- c. State Sub-CDE maintains accountability to residents of low-income communities through their representation on a governing board of or advisory board to the entity.
- d. State Sub-CDE is certified by the Secretary of the CDFI Fund as a CDE under the Federal NMTC Program.

Based on the foregoing, State Sub-CDE qualifies as a CDE.

### Qualified Low-Income Community Investments

La. R.S. 47:6016.1 does not require that the investment be made directly from State CDE to the QALICB. As such, so long as the State QLICs and Indirect Loan are made within 12 months of the Original QEI Date, and the State QEI and the State/Federal QEI are maintained throughout the seven-year compliance period, the proceeds of the State QEI used to make

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the Indirect Loan are treated as used by State Sub-CDE to make QLICs, despite the fact that the State QLICs were loaned by the Federal Sub-CDE. Further, since 100% of the State QLICs and Indirect Loan were used to make QLICs, 100% of the proceeds of the State QEI is treated as used by State Sub-CDE to make QLICs in compliance with La. R.S. 47:6016.1(B)(11).

#### Qualified Census Tract

A Qualified Census Tract qualifies as a low-income community under the LA NMTC Program for the full seven-year compliance period if, when the State QLICs are closed and funded, it is located in Louisiana and listed as a low-income community in the CDFI Fund's mapping system for the Federal NMTC Program.

#### Allocation of Credits

Pursuant to La. R.S. 47:6016.1(C)(1), any entity that makes a QEI is vested with an earned credit against state premium tax liability that may be utilized as follows:

- (a) On each credit allowance date of the QEI, the entity, or subsequent holder of the QEI, shall be entitled to use a portion of the credit during the taxable year, including the credit allowance date.
- (b) The credit amount shall be equal to the applicable percentage for the credit allowance date multiplied by the purchase price paid to the issuer of the QEI.

La. R.S. 47:6016.1(D)(1) allows tax credits earned by a partnership, limited liability company, S-corporation, or other pass-through entity to be allocated to the partners, members, or shareholders of such entity for their direct use in accordance with the provisions of any agreement among such partners, members or shareholders.

Based on the facts as stated, State Investment Fund is entitled to \$2,750,000 of LA NMTCs, which it may allocate among its members, including State Investor, in accordance with State Investment Fund's operating agreement. State Investor and the other members of State Investment Fund may allocate the LA NMTCs to their members, including State Investor Members, pursuant to the terms of their respective agreements.

While La. R.S. 47:6016.1(B)(10)(b) requires that 100% of the cash purchase price be used to make QLICs in QALICBs within 12 months of the initial credit allowance date, it does not require the cash purchase price be invested directly from State CDE into QALICBs. As such, the fact that the cash proceeds of the Indirect Loan are lent to Federal Investment Fund and used by Federal Investment Fund to make the State/Federal QEI and ultimately the State QLICs is not inconsistent with the purpose and provisions of La. R.S.47:6016.1, and, does not disqualify the investment from qualifying as a QEI.

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### Recapture

La. R.S. 47:6016.1(F), provides, in pertinent part, that the Department of Insurance shall recapture from the entity that claimed the credit on a return, the tax credit allowed pursuant to La. R.S. 47:6016.1 if any of the following occur:

1. Any amount of a federal tax credit available with respect to a qualified equity investment that is eligible for a credit under R.S. 47:6016.1(F) is recaptured under Code Section 45D of the Code. In such cases, the Department of Insurance's recapture shall be proportionate to the federal recapture with respect to the QEI.
2. With respect to QEIs issued on or after August 1, 2023, the issuer fails to invest an amount equal to one hundred percent of the purchase price of the QEI in QLICs in Louisiana within twelve months of the issuance of the qualified equity investment with at least fifty percent of the purchase price invested in qualified low-income community investments in impact businesses.
3. The issuer fails to maintain such levels of investment set forth in La. R.S. 47:6016.1(F)(4) in QLICs in Louisiana until the last credit allowance date for the QEI.

Should the taxpayer violate any of the above-mentioned provisions, the Department of Insurance reserves the right to recapture in accordance with La. R.S. 47:6016.1(F).

Additionally, it should be noted, that upon the receipt of any capital returned to or recovered from the State QLICs, in order to avoid a recapture of the LA NMTCs, the Federal Sub-CDE will reinvest an amount equal to the capital returned to or recovered from the original QALICB in Louisiana QALICBs in accordance with La. R.S. 47:6016.1(F)(5) of the LA NMTC Act in such amounts directly traceable to the State/Federal QEI.

### Effect of Federal CDE Status

Since there is no requirement that State CDE or State Sub-CDE invest the cash purchase price directly into QALICBs, the failure of the Federal Sub-CDE to maintain its status as a CDE will not invalidate the transaction under the provisions of La. R.S. 47:6016.1.

### NAICS Code Determination

The proposed QALICB is a nonprofit special-purpose entity formed to support the Operator by leasing, developing, and financing the Property for the Operator's use. The Borrower has no employees and is not expected to have any. The Operator qualifies under NAICS Code 624190, but the Borrower does not, as it engages only in leasing, development, and financing. The LA NMTC Program follows the Federal NMTC Program, which allows a look-through to

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tenant operations to confirm the property is not used for prohibited activities. However, the tenant's NAICS Code cannot be attributed to the QALICB. Under the LA NMTC Program, the Borrower must independently meet the Qualified NAICS Code requirement. Because it does not, the Borrower does not qualify as a QALICB. If the stacked leverage structure were restructured so that the Borrower itself met the requirement, it would satisfy R.S. 47:6016.1(B)(1)(a).

#### Timing of NAICS Compliance

Assuming the NAICS code requirement is met, operations at the Property cannot commence until the completion of construction of the Project. Such delay in operations is typical and necessary for a construction project, and should not cause the Borrower to fail to meet the Qualified NAICS Code requirement under La. R.S. 47:6016.1(B)(8)(a) at the time of funding of the State QLICs or prevent the State CDE from having a reasonable expectation that the Borrower will continue to be a QALICB throughout the term of the State QLICs. Accordingly, the Borrower will meet the Qualified NAICS Code requirement under La. R.S. 47:6016.1(B)(8)(a).

#### Employee Requirement

The Borrower does not have any employees and is not expected to have any employees. As such, Borrower will not exceed the greater of two hundred fifty and the number of employees set forth for the Project's Qualified NAICS Code sector in 13 CFR 121.201. Accordingly, the Borrower satisfies the employee requirements of La. R.S. 47: 6016.1(B)(8).

#### Impact Business Qualification

An "impact business" is a QALICB located in Louisiana that is more than 50% owned by women, minorities, or military veterans.<sup>1</sup> A QALICB has the same meaning as in Section 45D of the Internal Revenue Code and 26 CFR 1.45D-1.<sup>2</sup> Section 45D(d)(2) defines a QALICB as a corporation (including a nonprofit) or partnership that:

1. derives at least 50% of its gross income from a qualified business in a low-income community,
2. uses a substantial portion of its tangible property in a low-income community,
3. performs a substantial portion of its employee services in a low-income community,
4. holds less than 5% of its property basis in collectibles (except those for sale in the ordinary course of business), and
5. holds less than 5% of its property basis in nonqualified financial property.

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<sup>1</sup> La. R.S. 47:6016.1(B)(4). A business may additionally qualify as an impact business if it is located in a "rural parish," as defined in La. R.S. 47:6016.1(B)(7), or in the "recovery zone," as defined in La. R.S. 47:6016.1(B)(6).

<sup>2</sup> La. R.S. 47:6016.1(B)(8).

Louisiana law prohibits members of a nonprofit corporation from receiving economic ownership interests. La. R.S. 12:210 specifically bars members from receiving dividends, earnings, or other pecuniary benefits. Because members of a nonprofit may not enjoy any form of economic ownership of a nonprofit corporation, they may not meet the economic thresholds provided by IRC Section 45(D)(d)(2) and adopted by La. R.S. 47:6016.1(B)(8) relative to qualification as a QALICB. Accordingly, a nonprofit corporation cannot meet the requirements of La. R.S. 47:6016.1(B)(4), which requires that the QALICB be more than fifty percent owned by women, minorities or military veterans.

## **Ruling**

The investment requirements of La. R.S. 47:6016.1(B)(10) can be met through a stacked leverage structure utilizing indirect and direct funding provided State Sub-CDE invests 100% of the cash purchase price in QALICBs within twelve months of the Original QEI Date.

State Sub-CDE meets the definition of a “qualified community development entity” in La. R.S. 47:6016.1(B)(9) by virtue of its allocation agreement with the CDFI Fund that includes Louisiana in its service area and its certification as a CDE under Code Section 45D.

Assuming the NAICS Code requirement is met, the Indirect loans from State Sub-CDE to a Federal Investment Fund, followed by loans from a Federal Sub-CDE to Borrower, qualify as “qualified low-income community investments” under La. R.S. 47:6016.1(B)(11) because the proceeds are directly traceable to Louisiana QALICBs.

A census tract qualifies as low-income for the Louisiana NMTC Act if it is in Louisiana and listed as low-income under the Federal NMTC Program when the State QLICIs are funded.

La. R.S. 47:6016.1(D)(1) permits pass-through entities to allocate LA NMTCs to members in accordance with operating agreements. Investment Fund may allocate credits to Investor A and further to its members.

The Department of Insurance may recapture credits under La. R.S. 47:6016.1(F) if statutory requirements are not met, including failure to invest required amounts, failure to maintain investment levels, or certain federal recapture events.

Loss of federal CDE certification by the Federal Sub-CDE or its parent allocatee does not automatically trigger Louisiana NMTC recapture, provided state statutory requirements remain satisfied.

For purposes of La. R.S. 47:6016.1(B)(8)(a), the applicable NAICS Code for a QALICB leasing its property is determined by the operations of the QALICB in its own right. Accordingly, the NAICS Code of a lease tenant may not be attributed to the QALICB.

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Construction or operational delays do not prevent NAICS compliance at the time of funding, provided there is a reasonable expectation that the QALICB will operate under the qualifying NAICS Code.

A Borrower satisfies La. R.S. 47:6016.1(B)(8) with regard to the employee requirement if it has no employees and employs no more than the greater of 250 people or the limit set by the project's Qualified NAICS Code.

La. R.S. 47:6016.1(B)(4) includes QALICBs more than 50% owned by women, minorities, or veterans. Because members of a nonprofit are prohibited by Louisiana law from enjoying any form of economic ownership, a nonprofit may not qualify as an impact business, as required by La. R.S. 47:6016.1(B)(4).

**Richard Nelson**  
**Secretary of Revenue**

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