

---

---

# TAX MANAGEMENT

---

---

## New Markets Tax Credit

by

**Steven F. Mount**  
**Squire Sanders (US) LLP**  
**Columbus, Ohio**

### Special Consultant to Tax Management

Steven F. Mount, B.A., Muskingum College (1976); J.D., Harvard Law School (1979); admitted to bar, Massachusetts (1979), New York (1982), Ohio (1986), U.S. Tax Court (1989); panelist, Novogradac New Market Tax Credit Conference series; member, National Association of Real Estate Investment Trusts; Advisory Board Member, Bloomberg Bureau of National Affairs, Inc.; author of former BNA portfolio on the taxation of real estate investment trusts; author of several articles on REITs and other issues; recognized in The Best Lawyers in America since 2006; recognized in Ohio Super Lawyers.

**Leonard L. Silverstein, Esq.**  
Advisory Board Chairman  
Technical Director

**Patrick G. Doohar, Esq.**  
Deputy Technical Director

**Richard S. Marshall, Esq.**  
Deputy Technical Director  
for U.S. Income

# TAX MANAGEMENT

## New Markets Tax Credit

### PORTFOLIO DESCRIPTION

Tax Management Portfolio, *New Markets Tax Credit*, No. 585, describes the requirements and operation of the New Markets Tax Credit in § 45D.

The New Markets Tax Credit was established by Congress in 2000 and is intended to encourage investment in low-income communities. The credit is available to both individual and corporate taxpayers and is equal to 39% of the capital invested in a qualified community development entity, a for profit or nonprofit entity that commits to the rules of the program, which in turn must loan to or invest substantially all of such capital in qualified businesses operating in low-income communities. The nonrefundable credit is claimed in seven installments on the date of the original investment and the six anniversaries thereof. If the capital is withdrawn prior to the end of the seven-year period beginning on the date of the investment, the entire credit is recaptured. The credit is limited by the amount of allocation authority available each year, which is awarded based on a competitive application process.

The tax rules governing eligibility for the New Markets Tax Credit are contained in § 45D and the regulations thereunder, whereas the program is managed by the Community Development Financial Institutions Fund of the U.S. Treasury Department, which promulgates additional rules and requirements pertaining to the award and use of allocation authority.

The overall purpose of this portfolio is to introduce and explain the operation of the tax rules governing the New Markets Tax Credit. To that end, the portfolio discusses key definitional terms, applicable eligibility tests and other requirements, and particular topics, such as the possibility of recapture and issues with certain credit structures.

This Portfolio may be cited as Mount, 585 T.M., New Markets Tax Credit.