

## Statutory Issue Paper No. xxx

### New Market Tax Credit Project

#### STATUS

Exposure Draft – August 13, 2024

**Original SSAP: SSAP No. 93 and SSAP No. 94R**

**Current Authoritative Guidance: SSAP No. 93R and SSAP No. 94R**

**Type of Issue:**

**Common Area**

#### SUMMARY OF ISSUE

1. The purpose of this issue paper is to document for the historical record the substantive changes to statutory accounting guidance detailed in *SSAP No. 93R—Investments in Tax Credit Structures* and *SSAP No. 94R—Transferable and Non-Transferable Tax Credits*, respectively.

2. This issue paper illustrates tracked changes in SSAP No. 93 and SSAP No. 94R, effective January 1, 2025. The substantive revisions to SSAP No. 93 and SSAP No. 94R include revised accounting guidance on tax equity and bond investments, and tax credits earned or purchased. The adopted revisions to SSAP No. 93, SSAP No. 94R, *SSAP No. 34—Investment Income Due and Accrued*, and *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies* are illustrated as tracked changes in Exhibits A, B, and C, respectively. Exhibit D is a flowchart which details the order of operations for applying the revised SSAP No. 93R.

#### DISCUSSION

3. This issue paper provides a historical reference that includes tracked changes adopted within SSAP No. 34, SSAP No. 48, SSAP No. 93 and SSAP No. 94R. The conceptual changes were a result of the passage of the Inflation Reduction Act (IRA) and the Financial Accounting Standards Board (FASB) adopting *ASU 2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method* (ASU 2023-02) which amends ASC Topic 323 to allow reporting entities to consistently account for equity investments made primarily for the purpose of receiving income tax credits and other income tax benefits.

4. The IRA was signed into law by President Biden effective August 16, 2022. The tax law was expansive but had a significant effect on the tax laws underlying several significant federal tax credit programs. The changes to the wind and solar tax credit programs, which were effectively extended for 12 years (10 years plus a 2-year phase out), were particularly significant as the programs had previously been extended for brief periods of time at each renewal. Additionally, while the overall base tax credit rate was lowered for most tax credit programs, the total potential tax credits generated from these tax credit programs was increased (potentially as much as 5x to 6x the base rate) through the provision of bonus tax credits. To qualify for these bonus tax credits the project must meet specific wage, labor, material, or project location requirements. Other significant changes included expansion of the ability to transfer/sell certain types of tax credits to for-profit entities and the creation of a 2025 statutory transition for the technology specific Production Tax Credits (PTCs) and Investment Tax Credits (ITCs). Subsequent to 2025, PTCs and ITCs will be superseded by technology neutral tax credits known as Clean Electricity Production Tax Credits (CEPTC).

5. From a statutory accounting perspective, a tax credit investment is an asset representing a future stream of tax credits and benefits, which can be used to pay policyholder obligations by either offsetting tax liabilities, selling the allocated tax credits on a secondary market, or through receipt of a tax refund for

the tax credits. This definition is one of the main foundational concepts used while formulating the SSAP No. 93R draft. While most tax credit investments may be sold, the primary purpose of acquiring a tax credit investment is to generate tax credits which benefit reporting entities, most commonly through a reduction in tax liability or, when permitted by IRS or state tax provisions, through the sale of certificated/transferable tax credits. As the primary purpose of these investments is the generation of tax credits, impairment guidance focuses on the investment's ability to generate tax credits and admittance guidance focuses on the ability of the company to utilize the tax credits to be received (clean initial tax opinion and unqualified annual audits) and the reporting entity's ability to utilize these tax credits (prospective utilization assessment).

6. While ASU 2023-02 was adopted with modification, it should be noted that the revisions to SSAP No. 93 were ultimately more expansive than those adopted to U.S. GAAP by ASU 2023-02. These departures are discussed in detail in SSAP No. 93R, paragraph 36.

### **Actions of the Statutory Accounting Principles (E) Working Group**

7. In August 2022, FASB issued *Proposed Accounting Standards Update Investments—Equity Method and Joint Ventures (Topic 323)—Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. On December 13, 2022, the Working Group moved agenda item 2022-14: *New Market Tax Credits* to the active listing, categorized as a new SAP concept, and exposed a discussion document to expand current statutory accounting guidance for low-income housing tax credits to capture all tax equity investments that provide general federal business tax credit and state premium tax credits if they meet specified criteria. The initial discussion document utilized the August 2022 Proposed ASU as the basis for the changes to SSAP No. 93 and included 12 specific discussion items.

8. On February 10, 2023, the Working Group received a comment letter from interested parties which provided responses to the discussion items detailed in document 2022-14b. Interested parties' comments and the Working Group's responses are detailed below:

- a. **Comment:** Interested parties agreed that all investments, no matter what legal form, which primarily earn tax credits should utilize the proportional amortization method. It is noted that the discussion document appeared to only scope in tax equity investments and that interested parties would suggest the inclusion of language to either include tax credit bonds or clarify their exclusion from SSAP No. 93. As part of this clarification, interested parties asked if the Working Group intends to change CAPCO guidance or continue to allow CAPCOs to be reported on Schedule D. Interested parties noted that tax credit bonds are currently being reported on Schedule D and if the intent is to move these investments to Schedule BA, then interested parties would request that they be allowed to report with an NAIC designation, which reflects the low-risk nature and high-credit quality implicit in tax credit bonds.
- i. **Response:** As a result of interested parties' comments, the Working Group directed NAIC staff to expand its draft of SSAP No. 93R to include tax credit bonds but directed that the CAPCO guidance remain in place and not be extended to other tax credit bonds as this is a legacy one-off exception. Additionally, it is the intent of both the bond project and the draft of SSAP No. 93R that investments in which the primary returns are tax credits are to be reported on Schedule BA.
- b. **Comment:** Interested parties noted no issues with requiring the proportional amortization method under statutory accounting, which is a departure from U.S. GAAP which makes the proportional amortization method an election. Interested parties would also like to

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confirm that the ‘Substantially All Projected Benefits’ criterion along with the rest of the criteria are assessed at the time of purchase of the investment and not at every reporting period. Interested parties also noted that if NAIC staff intend to include tax credit bonds in the scope of SSAP No. 93, then the scoping criteria will need to be amended. Additionally, interested parties included an appendix of tax credit investments issued in debt/bond form to aid NAIC staff.

- i. **Response:** NAIC staff noted that the paragraph which precedes the scope criteria notes that investments must meet these criteria at the point of initial investment. The Working Group reviewed interested parties’ list of tax credit bond investments and noted the following:
  - (a) *CAPCOs:* As noted above, the Working Group does not intend to amend the existing carveout guidance for CAPCO investments as part of the SSAP No. 93R draft.
  - (b) *Other State Tax Credits issued in Bond Form and Federal NMTC Programs:* As the described investment vehicles issue securities to investors through the issuance of equity, these tax credit investment examples would firmly fall within the tax equity investment category rather than as true tax credit bonds. Further revisions will be made within the SSAP No. 93R draft guidance that any tax investment which includes an equity component, however nominal, would be considered a tax equity investment rather than a tax credit bond.
  - (c) *State or Municipal Tax Credit Bond Strips:* At the Working Group’s direction, NAIC staff have included Tax Credit Bond Strips within the SSAP No. 93R draft guidance as an example of a tax credit bond (Note: This was later clarified to only include tax credit strips which had stripped the future stream of tax credits from a debt security). NAIC staff also included a footnote noting that BABs and QTCBs are examples of tax credit bonds.
- c. **Comment:** Interested parties noted that guidance needs clarification on the inclusion of tax credit investments structured as bonds. Additionally, interested parties noted that there are other exceptions to the “at-risk” requirement for tax credit investments as well as the guaranteed returns exclusion.
  - i. **Response:** At the Working Group’s direction, NAIC staff removed references to yield/return guarantees and at-risk requirements for certain tax credit programs from the SSAP No. 93R draft. As these requirements and exclusions can change program to program and state to state, trying to detail specific guidance on these issues would be cumbersome and easily made out-of-date. Additionally, the current version of the SSAP No. 93R draft requires a fund level tax opinion for tax credit investments which would be required to provide a high confidence level on the efficacy of any yield/return guarantees and whether the investment vehicle is subject to ‘at-risk’ rules.
- d. **Comment:** Interested parties noted that existing statutory accounting guidance requires the amortization of LIHTC tax equity investments be recorded in net investment income, whereas U.S. GAAP has proportional amortization recorded to the income tax line along with the earned and utilized tax credits.

- i. **Response:** The initial draft proposed revisions to make the statutory accounting treatment for PAM expense substantially consistent with U.S. GAAP. The original intent for segregating proportional amortization activity from the income tax line was out of concern for any non-tax income or gains recognized from the investment. Current U.S. GAAP guidance stipulates that any non-tax income or gains are to be recognized as investment income which addresses this concern. However, upon further discussion with the Working Group it was determined that inclusion of the proportional amortization in income taxes would result in errors on the Schedule BA Verification between Years and on the Exhibit of Net Investment Income. The cost basis of Tax Credit Investments would be recorded to Schedule BA, but if the amortization were to be excluded from net investment income, then the change in the book value of investments would not roll. Upon review of the initial draft proposal, the Working Group determined that while changes could be made to the Schedule BA Verification between Years and the Exhibit of Net Investment Income, these updates would represent significant changes to these forms. The Working Group decided that the best path forward was to map out the changes that this would require to both schedules and then present it to the state insurance regulators for input (Note: Discussions with state insurance regulators and interested parties later determined that convergence with U.S. GAAP on this issue was not feasible due to the significance of the changes needed to the annual statement).
- e. **Comment:** Interested parties noted that one additional difference between statutory and U.S. GAAP accounting treatment of proportional amortization is that under U.S. GAAP, there are no DTAs set up for tax credit carryovers since the amortization and the tax credits are reported in the same line.
- i. **Response:** As of the NAIC 2023 Spring National Meeting, the Working Group directed NAIC Staff to expand the New Market Tax Credit Project to also include SSAP No. 94R, which addresses the recognition of purchased tax credits. Based on current revisions, federal tax credits which cannot be utilized are subject to DTA guidance as detailed in *SSAP No. 101—Income Taxes*.
- f. **Comment:** Interested parties believe that the non-admittance criteria detailed in the discussion document are too punitive as it would require the reporting entity to non-admit the entire investment if it does not have taxable income in a given year. Interested parties also questioned whether there is overlap between the non-admittance criteria and the impairment criteria. Additionally, interested parties requested clarification that the tax opinion requirement was only for the initial year of investment.
- i. **Response:** At the Working Group's direction, the non-admittance criteria was modified to ensure that it was clearly separate for impairment guidance and relax the non-admittance criteria so that the investment is not fully non-admitted if the entity has a short period of no taxable income. As part of these changes, a 3-year window in which the tax investment is fully admitted less any tax credit amounts not anticipated to be used. The updated guidance is intended to non-admit tax credit investments only to the extent a portion of the credits earned during that period cannot be used. In the event the reporting entity cannot substantially utilize those 3 years of tax credits an assessment must be performed to determine how much of the total investment cost basis can be admitted. (Note: The admittance test described here was substantially revised in 2024. See the prospective utilization assessment.)

Revisions were also made to clarify that the tax opinion requirement is required at the point of initial investment by the reporting entity, as well as to add additional guidance on the scope and required confidence level expressed by the tax opinion.

- g. **Comment:** Interested parties agreed that loss contingency guidance is appropriate for determining if future contributions give rise to a liability.
  - i. **Response:** None.
- h. **Comment:** Interested parties did not have an objection to incorporating fair value in the assessment of impairment.
  - i. **Response:** None.
- i. **Comment:** Interested parties noted that under question 8.f, non-admitting the entire investment appears too punitive for companies that expect to utilize the credits in a later year. Interested parties agreed that impairment would occur when the credits will not emerge at all. Question #6 needs to be clarified to explain these concepts since the way it is currently written, it seems to scope in the impairment criteria into the non-admission review.
  - i. **Response:** See the response detailed in paragraph 8.f.
- j. **Comment:** Interested parties did not have an objection to disclosing information about the nature of investments for which tax credits are earned. Paragraph 27(b) seems repetitive with the other information that is being required under paragraph 28 regarding the amount of tax credits and other tax benefits during the years presented.
  - i. **Response:** The Working Group aims to conform to U.S. GAAP where feasible and these disclosures were pulled from the proposed ASU. Regarding the concerns of duplication, the guidance in paragraph 27 requires qualitative disclosures on tax credit investments (method of accounting used, nature of the investment, etc.) whereas paragraph 28 requires primarily quantitative disclosures of tax investment financial data.
- k. **Comment:** Interested parties noted that while most disclosures are substantively the same as was previously required under SSAP No. 93, except the 15-year future realization of tax credit disclosure which is more detailed than most other investments and would require additional work to prepare.
  - i. **Response:** The Working Group agreed with Industry that the 15-year future realization disclosure was more detailed than is required for other investments, and directed NAIC Staff to remove these disclosures, and reduce the future realization disclosure to 5 years and thereafter.
- l. **Comment:** Interested parties noted that the additional disclosure requirements for tax credit investments in excess of 10% of admitted assets should be removed as they believe the detail does not provide relevant information and it would be quite rare for an insurer to have tax credit investments of such significance.
  - i. **Response:** The Working Group agreed that such a situation would be rare, and that it does not make sense to codify a separate set of disclosure requirements for

such an unusual situation. NAIC staff were directed to remove these additional disclosures in their entirety.

- m. **Comment:** Interested parties provided several other general comments on the discussion document which were: 1) Clarification on the difference between SSAP No. 93 and SSAP No. 94R on the matter of certificated tax credits. 2) SSAP No. 94R currently requires purchased tax credits to be recorded under “Aggregate Write-Ins for Other Than Invested Assets”. 3) Gains and Losses on certificated tax credits are required to be reported in other income per SSAP No. 94R whereas SSAP No. 93 requires inclusion of gains and losses from tax equity investments to be reported in net investment income.

- i. **Response:** The Working Group direct NAIC Staff to draft revisions to SSAP No. 93R and SSAP No. 94R to clarify the usage and inter-relationship of these SSAPs. As part of the revisions to SSAP No. 94R directed by the Working Group, NAIC staff will propose moving the reporting of federal tax credits from within the “Aggregate Write-ins for Other Than Invested Assets” line to inclusion within the reporting line for DTAs. The SSAP No. 93R draft will also be revised to provide guidance on tax credit investments whereas SSAP No. 94R would provide guidance on both allocated and purchased tax credits. (Note: The guidance discussed in this paragraph was substantially revised later on during 2023. As in, tax credits allocated from SSAP No. 93R investment are NOT within the scope of SSAP No. 94R.)

9. In March 2023, FASB issued and adopted ASU 2023-02. A comparison of the final ASU to the proposed ASU and noted during that most of the changes made to the final ASU would have no effect on the revisions proposed for SSAP No. 93 as the use of the proportional amortization would be a requirement under statutory accounting rather than an election. As a result of its review of the final ASU, new language to replace existing SSAP No. 93 language in SSAP No. 48 was drafted for Working Group review.

10. At the NAIC 2023 Spring National Meeting, the Working Group directed NAIC staff to draft statutory accounting guidance in the form of a new or revised SSAP that expands the current LIHTC guidance for equity investments that general federal business tax credit and state premium tax credits.

11. During April 2023, the Working Group discussed further proposed changes to the SSAP No. 93R draft. Significant changes resulting from this discussion were as follows:

- a. References to equity and bond style tax credit investments were further simplified to generically refer to ‘tax credit investments’ with the intent to capture any investment vehicle that generates returns primarily in the form of tax credits and tax benefits. Additionally, there were concerns expressed that the inclusion of bond terminology within the SSAP No. 93R draft could cause confusion or conflict once the Principles Based Bond Definition (PBBB) project was completed and adopted for statutory accounting purposes. Tax credit debt instruments would certainly not qualify as bonds under the new bond guidance and the decision was made to remove references to “tax credit bonds” or “tax equity investments” except where strictly necessary for clarification purposes.
- b. Admittance of tax credit investments were discussed in detail and the determination was made to separate the requirements into three parts: 1) Require companies to obtain an initial year tax opinion thus defined to include the fund and the projects and, as part of this definition, guidance was added regarding the confidence level required for the tax



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opinion to support admittance. 2) Require annual audits of tax credit investments. Based on discussion with industry experts, an audited financial statement requirement should not result in additional costs incurred by insurers as audits are typically performed as a matter of course on tax equity investment entities. To ensure that valid tax investments aren't nonadmitted due to a delay in audit completion, an allowance for insurers to use the prior year's audit as an alternative as well as a carve out from the annual audit requirement for any tax credit investments which, by virtue of their structure, could not be audited. It should be noted that the intent of the carve out was to prevent the annual audit requirement effectively non-admitting tax credit investments structured as debt securities. However, it was also the intent that any component of equity ownership involved in the investment, no matter how nominal, would exclude it from this carve out.

- c. Additional changes were made to the sections detailing accounting guidance on future equity contributions and additional tax credits. It was noted that the version presented in the discussion document could result in a situation where the reporting entity would be required to recognize a liability and expense on future contributions as the SSAP No. 93R draft requires any equity contributions not resulting in additional tax credits to be expensed. The Working Group determined that not only did this miss the mark on proper application of the matching principle, but it was also unnecessarily punitive. Based on this discussion, the proposal was amended to require the accrual of a liability for future equity contributions which result in additional tax credits, but only disclosures are required if the future equity contributions do NOT result in additional tax credits. Furthermore, the Working Group discussed what potential benefit would be gained by requiring companies to segregate additional tax credits allocated from future equity contributions and determined that no value was gained from this requirement. As such, the revisions to the SSAP No. 93R draft were changed to allow for the existing amortization schedule for the investment to be adjusted on a prospective basis for additional tax credits allocated.
- d. NAIC staff noted that one of the more significant departures from existing U.S. GAAP and statutory accounting guidance was the exclusion of proportional amortization from income taxes. Under current statutory accounting guidance, proportional amortization from LIHTC investments is recorded to net investment income which (above the line or as component of net income) on the annual statement, whereas U.S. GAAP accounting guidance has proportional amortization recorded as a component of income taxes (below the line or after net income). At the direction of the Working Group, NAIC began to explore converging with U.S. GAAP on this issue. Initially, NAIC staff believed that guidance it would be fairly simple to converge statutory accounting with existing U.S. GAAP guidance on this issue but upon further review and discussion of the annual statement NAIC staff became unsure whether this was feasible. One of the main concerns identified was that if proportional amortization from tax credit investments was not run through net investment income, then a reconciling item would be required to ensure the Exhibit of Net Investment Income and Schedule BA Verification between Years rolls properly. Otherwise, net investment income per Schedule BA would not be recalculable to the exhibit of net investment income and the Schedule BA verification would fail its cross-checks. NAIC staff mapped out the changes that would be required to the blanks to conform statutory recognition of proportional amortization to U.S. GAAP. NAIC staff's initial draft Blanks proposal included a reconciling item to the Exhibit of Net Investment income to back-out proportional amortization from tax credit investment recognized in income taxes, and bi-furcation of row 8, 'Deduct amortization of premium and depreciation' between amounts recognized from SSAP No. 93R investments and other types of investments. Based on this initial draft, the Working Group determined that

convergence with U.S. GAAP was not practical as it would require a number of changes to the blanks, verifications, and instructions. While it would be possible, tax credit investments do not currently represent a significant position on insurer portfolios, and it would not be reasonable to substantially change reporting lines and schedules simply to convergence with U.S. GAAP on what amounts to a minor reporting variance. At the direction of the Working Group, the changes to the SSAP No. 93R draft to converge statutory reporting of proportional amortization expense with U.S. GAAP were scrapped.

12. On May 16, 2023, the Working Group exposed revisions to SSAP No. 93 and SSAP No. 94R. The revisions to SSAP No. 93 propose adoption with modification of ASU 2023-02, which would include modifications to scope in all qualifying state and federal tax credit investments regardless of structure or the underlying tax credit program. The revisions to SSAP No. 94R expanded its scope to include all state and federal tax credits whether purchased or allocated, and that tax credits received should be recorded at face value with losses realized immediately and gains deferred on the balance sheet.

13. On June 30, 2023, the Working Group received a comment letter from interested parties on the exposed revisions to SSAP No. 93 and SSAP No. 94R. Interested parties provided several comments on both SSAPs which are summarized below along with the Working Group's responses. The interested party comments provided on the SSAP No. 93R draft were:

- a. **Comment:** Interested parties noted that paragraph 3 does not provide specific direction for which SSAPs would be applicable for tax credit investment which do not fall within SSAP No. 93.
  - i. **Response:** The Working Group agreed with the recommendation and directed NAIC Staff to update SSAP No. 93R, paragraph 3 to provide readers with specific SSAPs which could apply to non-qualifying equity or debt structure tax credit investments.
- b. **Comment:** Interested parties noted that the current draft directed readers to refer to SSAP No. 94R for how to account for tax credits allocated from tax credit investments. They felt that this cross-reference was confusing and could potentially lead to conflicting interpretations.
  - i. **Response:** To reduce confusion, the Working Group directed NAIC staff to remove the paragraph directing readers to SSAP No. 94R and instead pulled in the specific paragraphs from SSAP No. 94R which would be applicable to tax credits allocated from tax credit investments.
- c. **Comment:** Interest Parties noted that they were unclear on whether the tax credits earned, or the tax credit investments were subject to the admittance criteria detailed in SSAP No. 93R paragraphs 18.a.-18.c. Interested parties felt that admissibility concerns are adequately addressed by the tax opinion and audit requirements. Additionally, if NAIC staff's concern is the admittance of tax credits carried forward to a future period, then this should be adequately addressed by the admittance rules detailed in SSAP No. 101 for deferred tax assets. Interested parties suggested that paragraphs 18.a.-18.c. be deleted in full.
  - i. **Response:** NAIC staff noted that the admittance rules detailed in SSAP No. 93R paragraphs 18.a.-18.c. do NOT provide guidance on the admittance of allocated tax credits. For tax credit investment structures to fall within the scope of the SSAP No. 93R draft, substantially all benefits must be from tax credits or other



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tax benefits which essentially means that balance of a tax credit investment represents a future stream of tax credits and tax benefit. As such, the admittance rules in paragraph 18.a.-18.c. would require a company to assess its ability to utilize that future stream of tax credits to what amount of the tax credit investment would be non-admitted. If the company's projections determine it will be unable to substantially utilize the future stream of tax credits (i.e., the tax credit investment balance) then potentially all or a portion of the tax credit investment would be considered non-admitted as the company is unable to utilize the future stream of tax credits to offset tax liabilities. (Note: The admittance test discussed in this paragraph was substantially revised in 2024. See the prospective utilization assessment.)

- ii. In response to these comments, the Working Group directed NAIC staff to revise SSAP No. 93R paragraphs 18 through 18.c. to further clarify the intent and purpose of the guidance, as well as the order of operations to be followed when assessing the reporting entity's ability to utilize unallocated tax credits from the investment were incorporated.
- iii. Tax credit investments are essentially an asset representing a future stream of tax credits and benefits, which could be used to pay policyholder obligations by either offsetting tax liabilities, sale on a secondary market, or through receipt of a refund. However, if a reporting entity is unable to utilize the tax credits and benefits received from these investments due to the reporting entity's financial performance then the benefits received from the tax credit investment would no longer represent an asset that can be used to pay policyholder obligations. SSAP No. 93R paragraphs 18 and 18.a. would require the reporting entity to nonadmit the investment, either partially or fully, due to its inability to utilize the future stream of tax credits and benefits. This differs from impairment as the intent is not to assess the investment's viability, but rather to assess the company's ability to utilize the future stream of tax credits and benefits. Without these paragraphs, there would exist no mechanism in statutory accounting guidance, which would require a poorly performing company (for example, one which has fallen below the RBC control threshold) to nonadmit tax credit investments, even though they cannot be used to pay policyholder benefits since the tax credits cannot be utilized. Paragraphs 18.b. and 18.c. provide a carve out for the admittance of tax credit investments which provide transferable/certificated or refundable tax credits. (Note: The admittance test discussed in this paragraph was substantially revised in 2024. See the prospective utilization assessment.)

- d. **Comment:** Interested parties noted that U.S. GAAP requires retrospective adoption of ASU 2023-02 and that this would result in U.S. GAAP vs. statutory accounting differences.

- i. **Response:** In response to industry's concerns on differences between U.S. GAAP vs. Statutory implementation, the Working Group directed NAIC Staff to update the draft of SSAP No. 93R to be adopted retrospectively to conform with industry's request. (Note: It was later clarified by interested parties that this comment was a question rather than a request. Upon adoption in 2024, the revisions in the SSAP No. 93R draft are to be applied prospectively.)

- 14. The interested party comments provided on SSAP No. 94R were:

- a. **Comment:** Interested parties requested that paragraph 1 of the Scope of Statement section be amended to clarify which types of tax credits are within scope of SSAP No. 94R. Interested parties felt that the key difference between SSAP No. 94R and SSAP No. 93 is that the former is for purchased tax credits and the latter is for tax credits earned from investments.
- i. **Response:** The Working Group generally agreed with the comments provided but directed NAIC staff to remove the term “certificate” from the requested changes. The intent of SSAP No. 94R is to provide guidance on all purchased state and federal tax credits, not just certificated tax credits. Additional language was also added to clarify the scope of SSAP No. 94R for allocated tax credits, as detailed in the next Response paragraph.
- b. **Comment:** Interested parties noted that they do not believe allocated tax credits from SSAP No. 93 investments should be within the scope of SSAP No. 94R as the guidance was confusing and could potentially lead to conflicting interpretations. Additionally, Interested Parties believe that tax credits from investments vs. purchased tax credits are distinctly different assets. The only similarity in accounting for the tax credits relates to instances when the credits earned under a SSAP No. 93 investment cannot be utilized in the current year. Under that scenario, a DTA would be recorded, which would be subject to the admissibility rules under SSAP No. 101.
- i. **Response:** In response to the interested parties’ comments, the Working Group elected to remove tax credits allocated from SSAP No. 93R investments from the scope of SSAP No. 94R to avoid confusion when application the statutory accounting guidance. As a general note from the Working Group, irrespective of whether the tax credits are allocated from an investment or purchased outright, the tax credits received represent the same type of financial instruments which can be utilized as an offset to tax liabilities, sold, or redeemed for cash as a tax refund. Additionally, irrespective of how the tax credits are received they are recorded at face value upon acquisition. The only significant difference is that tax credits purchased at a premium or discount may result in a recognized loss or deferred gain, respectively, whereas any premium or discount on an allocated tax credit is implicit in the recognition of the proportional amortization.
- ii. At the direction of the Working Group, additional language was also added noting that allocated tax credits earned from tax credit investments NOT within the scope of SSAP No. 93R should refer to SSAP No. 94R for guidance on how to record allocated tax credits. It was noted that without this language there would be no guidance within Accounting Practices and Procedures Manual for how to account for tax credits allocated from Non-SSAP No. 93R investments (see issue paper paragraph 15 below for further discussion on this guidance).
- c. **Comment:** Interested parties noted that most tax certificates reduce a reporting entity’s tax liability and do not directly impact the income statement at the time they are used. In addition, interested parties believe that upon purchase, the tax credits should be reported as an other-than-invested asset since the asset represents a right to receive future benefits. As the tax credits become available for use, a reduction to the insurer’s income tax payable or premium/state taxes payable should take place.
- i. **Response:** The Working Group disagrees with this proposed change as purchased federal tax credits would be reported as other-than-invested assets,

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versus allocated federal tax credits which would be reported as a deferred tax asset. This would result in the same type of asset being reported on two separate lines based on the manner in which it was acquired. As noted above, the Working Group position is that allocated and purchased tax credits are substantially the same assets irrespective of the way in which they are acquired. Additionally, interested parties also propose that if a tax credit cannot be utilized in the same period in which it was purchased it should be transferred to Deferred Tax Assets. This would not resolve the short-term reporting discrepancy noted previously and adds further complications to the accounting process by requiring a reporting line transfer if the asset is held for longer than a year. As such, at the direction of the Working Group, these changes were not incorporated into the proposed revisions.

- d. **Comment:** Interested parties noted that the accounting for purchased tax credits in the SSAP No. 94R exposure is different from the current guidance in that the credits will be recorded at face value instead of at cost. This is not an issue perse, but interested parties did want to point out this discrepancy as compared to the accounting treatment for other assets like bonds and mortgage loans.
  - i. **Response:** The Working Group's position is that tax credits, whether received via purchase or allocation, do not represent investments, and has opted to propose accounting guidance that differs from bonds or mortgage loans. The position that tax credits do not represent investments was the main reason for the original SSAP No. 94R guidance which required state tax credits be recorded to Other Than Invested Assets and effectively required tax credits purchased at a discount to defer the gain off the balance sheet by recording the acquired tax credit at cost. The revised guidance currently proposed should be less confusing and provide a more accurate financial picture to record acquired tax credits at face value and defer any gains from discount purchases on the balance sheet.
- e. **Comment:** Interested parties proposed changes to Exhibit B to reflect a pro-rata utilization of purchased tax credits in relation to the quarterly accrual of income tax liabilities. The main purpose of these changes was to reflect interested parties' proposed changes in item #2.
  - i. **Response:** Exhibit B was updated to incorporate revisions proposed by interested parties and recognizing tax credit utilization is also applicable to exposed draft of SSAP No. 94R.

15. Outside of the changes made in response to the interested parties' comment letter, both exhibits in the SSAP No. 93R draft were revised based on discussions with the Working Group to provide example journal entries of the Proportional Amortization method. As part of this revision, the assumptions in Exhibit B were revised so that a journal entry example could be provided for a residual sale at the end of the proportional amortization period. Additionally, a new footnote was also added to SSAP No. 94R based on informal comments the Working Group received from the public. The new footnote provides clarification on what constitutes a purchased tax credit vs. an allocated tax credit. Purchased tax credits are typically acquired through receipt of a tax credit certificate (certificated) or execution of a transfer form (transferable).

- a. The distinction made between a purchased vs. allocated tax credits is intended to address concerns that companies could improperly recognize tax credit investment transactions as tax credit purchases (e.g. expensing equity contributions). Insurers should first consider whether their tax credits are purchases, as defined by footnote 1 in SSAP No. 94R. If the tax credits

are received through other means, for example a Form K-1, are indicative of an allocation from an investment. Any investment which allocates tax credits must be assessed to determine if it is within the scope of SSAP No. 93R.

- b. Assuming this assessment has already been performed, the insurer may still look to SSAP No. 94R for accounting guidance on how to recognize and utilize tax credits allocated from investments NOT within the scope of SSAP No. 93R. The Working Group's intent with the revised guidance was to clearly disallow tax credit investments from being accounted for under SSAP No. 94R, while still providing some measure of accounting guidance for how to recognize and utilize tax credits allocated from investments NOT within the scope of SSAP No. 93R.

16. In June of 2023, the Working Group received a comment letter from interested parties on the Bond Definition Project which addressed the Schedule BA reporting lines. Included in this comment letter were notes on changes to the Blanks for tax credit investments. Based on NAIC staff's review, the following Blanks Instruction pages identified as potentially needing updates to conform with the proposed revisions to SSAP No. 93 and SSAP No. 94R (the following page numbers are from the Life blank instructions):

- a. *Other Invested Assets - Pg. 29*: Line 8 to be updated for new title of SSAP No. 93R.
- b. *Disclosures - Pgs. 165, 241, 268, 273*: Page 165 to be replaced with disclosures detailed in SSAP No. 93R, and update page 241 for new language. Page 268 & 273 to be replaced with disclosures detailed in SSAP No. 94R.
- c. *Reserve Calculation Instructions - Pg. 372*: Update instructions for changes.
- d. *Schedule BA Instructions - Pgs. 522, 523, 527*: Replacement of all existing Low Income Housing Tax Credit categories, Line Numbers 3599999-4499999, and replacement of instructions for these lines on page 527.
- e. *Schedule BA Examples - Pg 526*: Update for new language and examples in updated SSAP No. 93R.

17. The following Blanks forms require update for the current proposal (the following page numbers are from the Life Blanks):

- a. *Exhibit of Net Investment Income (Pg. 8)*: No changes required.
- b. *Schedule BA (Pgs. E07-09)*: No changes required.
- c. *Schedule BA Verification (Pg. SI03)*: Add proportional amortization to the title of row 8.
- d. *Asset Valuation Reserve (Pg. 35)*: Update LIHTC language for updated line numbers, as noted in 13.3i. – 13.3iii above.

18. At the NAIC 2023 Summer National Meeting, the Working Group exposed additional revisions made to SSAP No. 93 and SSAP No. 94R, and directed NAIC staff to work with interested parties to draft revisions to the annual statement instructions and reporting updates.

19. Subsequent to the NAIC 2023 Summer National Meeting, the Working Group direct NAIC staff to make the following changes:

New Market Tax Credit Project

- a. *Tax Credit Strips from Equity Investments:* The Working Group received an informal comment from the public on footnote 4 in the SSAP No. 93R draft and amended it accordingly to note that tax credit strips created from equity method investment tax credit streams would NOT qualify for the audit exception as the underlying source of the tax credits is, in fact, from an auditable entity. A tax credit strip is simply an instrument which separates the ownership of the tax credits earned from the ownership of the tax credit investment. Stripping the future stream of tax credits from a tax equity investment entity to be sold separately from the equity ownership does not negate the requirement to audit the investor entity and, in turn, the underlying assets generating the stripped tax credit benefits. This clarification was specifically intended to prevent a practice that could be used to circumvent the audit requirement; simply because the stream of tax credits have been stripped from the tax equity investment and placed into a structure resembling a debt instrument does not mean the company can forgo annual audits. In this situation, the company would still need to receive qualifying audits from the tax equity entity which originally held the stream of tax credits.
- b. *Unused Allocated Tax Credit Disclosures:* NAIC staff noted that the SSAP No. 93R draft did not have disclosures for unused allocated tax credits. As there is no fundamental difference between a tax credits asset that was acquired via allocation vs. purchase, it made no sense to exclude tax credits received from SSAP No. 93R investments from the majority of the tax credit disclosures required in SSAP No. 94R. The Working Group directed NAIC staff to pull in most of the tax credit disclosures from SSAP No. 94R into the disclosure section of the SSAP No. 93R draft.
- c. *Investments in Variable Tax Credit Programs:* The Working Group received an informal comment from industry asking for clarification on whether the normal variations in tax credit allocations in certain tax credit programs (for example, production tax credits) would trigger impairment concerns. NAIC staff were directed by the Working Group to add a new paragraph to the impairment section noting that situations in which actual allocated tax credits from variable programs are less than estimated tax credit by more than 10% in a single period or have consistently returned less than estimated tax credits over multiple allocation periods must either record for impairment or specifically address the issue in its impairment analysis if variable tax credits are less than. The intent of this guidance was to be simple and easy to follow, but more importantly to clarify that companies did not need to consider their investments impaired due to normal and reasonable variations in allocated variable tax credits.
  - i. On a practical note regarding the last sentence in SSAP No. 93R paragraph 29, if the tax credit allocation time frame has ended and the investment is in a net loss position when comparing actual tax credits allocated vs estimated tax credits then the remaining balance should be written off as an other-than-temporary-impairment loss in the same period the last tax credit is allocated.
- d. *Awarded Tax Credits:* The Working Group received an informal comment from industry which noted that awarded tax credits would not be within the scope of SSAP No. 94R and asked if this was the intent. After discussing the matter, the Working Group felt that it did not make sense to extend the scope of SSAP No. 94R to include tax credits which were not acquired through a financial transaction and directed NAIC Staff to make edits to the Scope of Statement to define what an awarded tax credit is and that reporting entities should refer to SSAP No. 101.

- e. *Commitments to Purchase Tax Credits:* NAIC staff noted that SSAP No. 94R provided no guidance on commitments to purchased tax credits. Based on this information, the Working Group directed NAIC staff to add a new paragraph to the end of the Accounting and Disclosure sections to address this issue.

20. On September 29, 2023, the Working Group received an interested party comment letter on the exposed revisions to SSAP No. 93 and SSAP No. 94R. Interested parties provided several comments on both SSAPs which are summarized below along with the Working Group's responses. Interested parties' comments on the SSAP No. 93R draft have been summarized for brevity and are shown below:

- a. **Comment:** Interested parties noted that the SSAP No. 93R, paragraph 18, admittance test<sup>1</sup> requires reporting entities to annually assess the future utilization of the unallocated tax credits associated with an entity's ownership interest in a tax credit investment project to determine if the investment can be admitted. However, interested parties suggested that this admittance criteria only be applicable to investments which do not allocate transferable or refundable tax credit and if the reporting entity is contractually restricted from selling its ownership interest. Additionally, interested parties suggested deleting paragraphs 18.a. and 18.b. as admissibility is adequately addressed through the impairment analysis required in paragraph 25; mainly that since both the tax credits and investments are saleable there is not significant concern about the reporting entity's ability to utilize these investments and their tax credit returns for policyholder liabilities.

**Response:** The Working Group noted that interested parties' argument is twofold:

- i. First, usage of the investment's fair value as a carve out in SSAP No. 93R paragraphs 18.a. and 18.b. is confusing due to the requirement to test for impairment based on fair value. At the direction of the Working Group, NAIC staff amended paragraph 18.a. to clarify that the carve out allows for admittance of the fair value of the unallocated transferable/certificated tax credits rather than the fair value of the tax credit investment. The tax credit investment balance would include other tax benefits which cannot be sold apart from the investment ownership. The intent of paragraph 18.a. is to allow a reporting entity to at least admit the fair value of the tax credits which can be readily liquidated to pay policyholder claims, which is potentially higher than the admitted amount calculated in paragraph 18.
- ii. Second, since these investments may be sold, the admittance assessment of the reporting entity's ability to utilize the tax credits is not needed unless the reporting entity contractually restricted from the selling the investment. As part of this comment, it was noted that these investments may be actively managed and are readily saleable. NAIC staff noted that acquiring tax credit investments with the intent of re-sale puts an insurance company in a similar position as a syndicator in which tax credit investments are developed or acquired for the purpose of sale. At the direction of the Working Group, the SSAP No. 93R draft was revised under the assumption that tax credit investments are acquired for the purpose of obtaining returns through the receipt of tax credits and other tax benefits rather than through the sale of the tax credit investment. Additionally,

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<sup>1</sup>The "paragraph 18 admittance test" is specifically referenced in both the meeting minutes and historical versions of the Form A; however, in 2024 the paragraph 18 admittance test was renamed the "Prospective Utilization Assessment" as the paragraph numbering changed due to revisions made to the SSAP No. 93R draft.



the Working Group does not believe the paragraph 18 admittance criteria should be amended to provide a carve out for actively managed tax credit investments as it is not feasible to delineate between tax credit investments purchased for sale vs. purchased for generation of tax benefits without introducing some kind of available-for-sale and held-to-maturity framework which is not compatible with statutory accounting concepts. NAIC staff noted that restrictions which prevent investors from selling their ownership represent a minority of tax credit programs. As such, limiting the scope of paragraph 18 to only tax credit investments which cannot be sold would effectively carve out the majority of tax credit investment structures from its scope. Additionally, the assertion that these investments are readily saleable does not change the fact that the balance sheet value of a tax credit investment is predicated on the assumption that the company can use the tax credits and benefits and if they company cannot use these tax credits then the investment returns have no value. Until the investment has been sold, its ability to satisfy future policyholder obligations is beholden to the company's ability to utilize the generated tax credits and benefits. Interested parties noted that there are other investments which do not have as stringent admittance criteria as have been proposed in paragraph 18. NAIC staff noted that other investments generate returns primarily through the receipt of fungible cash income or by providing a claim to the entity's earnings and assets (bonds, stocks, joint ventures, partnerships and LLCs). In comparison, the main purpose of a tax credit investment is to provide returns in the form of tax credits and other tax benefits, and this purpose is further borne out by the commonly used partnership flip structure for tax credit investments which typically retain zero, or occasionally nominal, residual value once the tax credits have been fully allocated.

- iii. Additionally, the requirement to assess tax credit investments by looking at the company's ability to realize future tax credits is not a new concept. Under current SSAP No. 93 OTTI guidance, companies are required to record OTTI if the company determines it is probable that future tax benefits will not be received as expected. As stated in SSAP No. 93, paragraph 17, sentences 2 through 5, companies are required to assess whether the investment will continue to issue the tax credits as anticipated AND whether the company will be able to realize/utilize the future tax benefits to be received. As part of the SSAP No. 93R draft, the requirement to assess the company's ability to utilize future tax credits was moved out of impairment to admissibility. As currently revised, the impairment test specifically addresses the functionality of the investment whereas the paragraph 18 admittance test specifically addresses the ability of the company to realize/utilize the future tax benefits. This was done to simplify the impairment analysis by focusing on investment functionality, but also because that the company's ability to utilize future tax benefits is more accurately characterized as an admittance concern rather than impairment of the investment balance.

- b. **Comment:** Interested parties suggested a number of editorial changes to effect clearer guidance in paragraphs 18 and 18.a. These included clarifying that the paragraph 18 assessment of unallocated tax credit utilization should be performed over the life of the tax credits rather than the life of the investments, including its carryforward periods. Interested parties also suggested clarifying in paragraph 18 that tax planning strategies are to be used when assessing the utilization of unallocated tax credits, similar to the valuation allowance requirements under SSAP No. 101. In paragraph 18.a. Interested

parties suggested removing the sentence detailing what to do if fair value is not non-determinable.

i. **Response:** The Working Group agreed with substantially all the editorial clarifications suggested by Interested parties and directed NAIC Staff to update accordingly.

c. **Comment:** Interested parties suggested adding a definitions section to the guidance regarding the following terminology:

“Unallocated Tax Credits” – The portion of tax credits expected to be earned and allocated to the reporting entity through the investment structure.

“Current Portion” – The credits to be allocated within one year of the reporting period.

i. **Response:** The Working Group agreed with the suggestion by interested parties to add definitions and directed NAIC staff to update accordingly with some minor modifications. Some additional definitions were also added to provide clarifications on other terms used in the SSAP No. 93R draft. (Note: The definition of “current portion” was later removed as this term was eliminated from the paragraph 18 admittance test in 2024.)

d. **Comment:** Interested parties suggested that the new SSAP No. 93 be applied prospectively effective January 1, 2025, but no early adoption.

i. **Response:** The Working Group agreed with the changes suggested by interested parties and directed NAIC Staff to update accordingly.

21. The comments provided on SSAP No. 94R are below and have been summarized for brevity:

a. **Comment:** Interested parties suggested that the revised SSAP No. 94R should also be applied prospectively, effective January 1, 2025, with early adoption permitted. Additionally, interested parties suggested a clarification to the scope of SSAP No. 94R by adding the following language to paragraph 1:

“This statement establishes statutory accounting principles for state and federal tax credits that are purchased by the reporting entity without being an bond or equity investor in the entity from which the tax credit were purchased.”

i. **Response:** The Working Group agrees with prospective application of SSAP No. 94R with an effective date of January 1, 2025, however elected to not direct NAIC Staff to make the requested changes to the scope of SSAP No. 94R. The reasoning was that this guidance intends to exclude tax credits allocated from SSAP No. 93R investments, which does not specifically identify which tax credit investment structures are within scope of the guidance. However, other adjustments were made to the SSAP No. 94R Scope paragraph to better clarify that tax credits from SSAP No. 93R investments were not within the scope of SSAP No. 94R.

22. On December 1, 2023, the Working Group exposed revisions made to SSAP No. 34, SSAP No. 48, SSAP No. 93, and SSAP No. 94R as part of the new market tax credit project. Revisions to the SSAP No. 93R and SSAP No. 94R drafts included miscellaneous editorial updates and the items discussed above in issue paper paragraphs 19 through 21. The exposure also included new revisions to SSAP No. 34

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and SSAP No. 48 which clarified that tax credits are not within the scope of investment income guidance and updated for new SSAP No. 93R language, respectively. Additionally, the Working Group requested comments from state insurance regulators and industry on new RBC reporting categories.

23. Subsequent to the NAIC 2023 Fall National Meeting, interested parties reached out to the Working Group to continue discussions on the paragraph 18 admittance test. The two main concerns raised were that the test would nonadmit previously admitted LIHTC investments and that the test's current structure would significantly increase the administrative burden on insurers who hold tax credit investments. Regarding the first concern, it was pointed out that for all intents and purposes the paragraph 18 admittance test already existed in a simplified form within the impairment LIHTC guidance shown within SSAP No. 93 (see discussion in issue paper paragraph 20). Further discussion developed an initial idea which would allow companies to forgo the paragraph 18 test if the company had no valuation allowance recorded against its DTAs. Based on these discussions and at the direction of the Working Group, NAIC staff drafted new language which would revise the paragraph 18 admittance test. The revisions were as follows:

- a. The paragraph 18 admittance test was renamed "Prospective Utilization Assessment" (a specific name was deemed necessary as a new paragraph was added which would have re-numbered the paragraphs).
- b. Rather than a practical expedient, language was drafted which would direct companies to perform the Prospective Utilization Assessment if either of two criteria were present in the current or prior period. The first criteria is the existence of a valuation allowance, the second criteria is if the company is aware of any other facts and circumstances which indicate the company would, more likely than not, be unable to substantially utilize the unallocated tax credits. NAIC staff noted that since the valuation allowance, under statutory accounting, is specific to federal income tax it could not be the sole criteria for the Prospective Utilization Assessment as tax credit investments which allocate state income tax or premium tax credits are commonplace. Other changes made to SSAP No. 93R as part of revising admittance test were:
  - i. Included in the Glossary is a definition of the probability of "more likely than not," which is 50% or greater, as this probability concept already existed within SSAP No. 101. As these investments provide earnings primarily in the form of tax benefits it makes sense to utilize similar concepts as those used in SSAP No. 101.
  - ii. For the other facts and circumstances criteria, to avoid requiring companies to prove a negative (e.g., prove to auditors that other facts and circumstances did not exist) as such the language specifically notes that the company only need perform the Prospective Utilization Assessment if it is aware of other facts and circumstances. However, for c this criterion is intentionally broad, and companies should not limit their consideration of other facts and circumstances to the confines of statutory accounting concepts. To this end, two examples of other facts and circumstances were included within the guidance that would meet criteria 2.
  - iii. The Prospective Utilization Assessment test was also simplified by removing the requirement to perform an initial assessment of the utilization of the current portion of unallocated tax credits; the current portion definition was also removed from the glossary as this term was only used in what was previously referred to as the paragraph 18 admittance test.

24. On January 29, 2024, the Working Group exposed, through an evote, revisions made to SSAP No. 93 and SSAP No. 94R as part of the New Market Tax Credit project (see items discussed in issue paper paragraph 23) as well additional editorial updates. The comment period was accelerated to allow the Working Group the opportunity to adopt the New Market Tax Credit project at the 2024 Spring National Meeting.

25. On February 9, 2024, interested parties provided comments to the Working Group on the January 29<sup>th</sup> exposure. Interested parties noted that they agreed with the changes made to the Prospective Utilization Assessment (previously the paragraph 18 admittance test) and no further comments on this issue. Comments were provided on a consistency issue with Example 2 of the SSAP No. 93R draft and on the reporting categories that would be used to report tax credit investments for RBC purposes. The comments have been summarized below for brevity:

- a. **Comment:** Interested parties noted that Schedule BA has reporting sections for Guaranteed, Non-Guaranteed, and All Other Low Income Housing Tax Credit (LIHTC) investments. The RBC charges are driven by these categories and are 0.14%, 2.6%, and 15%, respectively.
  - i. **Suggestion 1:** Keep the same categories but remove all references to LIHTC tax credit investments if the expectation is that the RBC charges will remain the same regardless of tax credit program type.
  - ii. **Suggestion 2:** Keep the same categories, but to have two separate sections in each category, for debt and equity investments.
  - iii. **Suggestion 3:** Assuming the reporting lines delineate between debt and equity, provide separate RBC treatment for debt structured investments with SVO designation.
- b. **Comment:** Interested parties also noted that the current annual statement instructions for LIHTC investments may need some clarity as there is diversity in interpretation as to what the instructions require. For example:
  - i. Under the non-guaranteed section, there is a reference to “level of leverage below 50%”. It is not clear why this requirement is included and whether this requirement is for the insurer to determine whether debt in the structure is below 50% of the total capitalization of the entity or how to classify the investment for accounting and reporting if leverage is higher than 50%.
  - ii. The “all other” category refers to non-qualifying LIHTC investments. Interested parties are not clear on what non-qualifying means.
- c. **Comment:** Interested parties noted that Example 2 was amended to include a residual value, but the computations for proportional amortization and journal entries were not updated for this fact.

26. At the NAIC 2024 Spring National Meeting, the Working Group voted to adopt the exposed revisions, updated for the corrections to Example 2 in the SSAP No. 93R draft, and the revisions, which are as exposed, to SSAP No. 34, SSAP No. 48, and SSAP No. 94R. The effective date of the revisions is January 1, 2025. The Working Group also directed NAIC staff to:

- a. Sponsor a blanks proposal on the annual statement reporting categories for tax credit investment RBC by using the suggestion from the interested parties comment letter to

maintain the same categories but without reference to LIHTC (suggestion 1) and to also update/clarify the instructions accordingly.

- b. Send a referral to the Life Risk Based Capital (E) Working Group to inform them of the planned reporting line changes, which may indicate review of the RBC charges as different categories of tax credits will be reported in the form.
- c. Draft an issue paper to document the discussions and revisions for agenda item 2022-14.

27. The Working Group sponsored a blanks proposal (#2024-11BWG) to update the annual statement instructions for changes made by the adoption of the New Market Tax Credit project. This agenda item was exposed by the Blanks (E) Working Group on April 1, 2024, and included the following updates:

- a. Updates to the annual statement instructions in accordance with the SSAP No. 93R and SSAP No. 94R drafts (terminology, disclosures, etc.).
- b. AVR/Schedule BA reporting lines were amended to replace references to “Low-Income Housing Tax Credits” with the general term “Tax Credit Investments.” While the reporting lines and RBC factors were generally kept the same, the Working did elect to remove the Federal Guaranteed Tax Credit programs from the draft proposal because these types of tax credit investment structures with “make whole” guarantees were substantially eliminated by the Historic Boardwalk Hall, LLC v. Comm of Internal Revenue court decision in 2012.

28. On April 2, 2024, the Working Group sent a referral to the Capital Adequacy (E) Task Force and Life Risk-Based Capital (E) Working Group informing them of the changes made to the annual statement instructions in response to the adoption of the New Market Tax Credit Project.

29. Per discussion with industry, agenda item #2024-11BWG was updated for the following:

- a. **Comment:** Interested parties noted that it would increase consistency in reporting if an example disclosure were provided for Note K(5).
  - i. **Response:** The Working agreed and directed NAIC Staff to add an example of the disclosure format for aggregate disclosure schedule of tax credits expected to be generated each year for the subsequent five years and thereafter.
- b. **Comment:** Interested parties noted that the reporting line titles in the AVR/RBC Instructions were confusing as the guaranteed reporting line is only for yield guaranteed tax credit investments and the criteria for the non-guaranteed reporting line requires compliance guarantees.
  - i. **Response:** The Working agreed and directed NAIC Staff to update the reporting line titles to increase clarity; the “non-guaranteed” reporting lines were renamed “qualifying” and the “guaranteed” reporting line was renamed “yield guaranteed.”
- c. **Comment:** Interested parties requested some clarifying edits to the criteria for the yield guaranteed and qualifying tax credit investment categories.
  - i. **Response:** The Working agreed and directed NAIC Staff to add language to be clear that only yield guaranteed federal tax credit investment previously reported

under the federal guaranteed line would need to go to the Other Tax Credit Investments line (assuming it is within the scope of the revised SSAP No. 93).

- ii. The criteria for Qualifying tax credit investments were also amended to be clear that investments must meet all of the stated criteria and that tax credit guarantee agreements from developers or an insurer are acceptable, assuming the transaction is executed at arm's length.
- d. **Comment:** Interested parties requested that the duration of the tax credit guarantee agreement, "life of the investment structure" be deleted as often times the life of the investment structure exceeds that of the tax credit compliance period.
  - i. **Response:** The Working Group agreed that the life of the investment structure was too restrictive, but also noted that the preferential RBC factor for Qualifying Tax Credit Investments is because the guarantees help limit any potential losses from recapture. A tax credit guarantee agreement could have a compliance guarantee, but only during the construction phase. Without terminology setting the acceptable duration of the compliance guarantee, investments with compliance guarantees lasting only a fraction of the regulatory compliance period would receive the same RBC treatment as those with more robust compliance guarantees. When the LRBC Working Group originally set the RBC factors for the "Non-guaranteed" (now renamed "Qualifying") reporting lines, the presence of these guarantees over the course of the investment was one of the stated reasons for the preferential RBC factor. As a result of these discussion, the Working Group directed NAIC staff to retain a duration requirement but to replace the language "for the life of the investment structure" with "for the duration of the regulatory compliance period of the tax credit program."

30. During July 2024, NAIC Staff received informal questions from a public accounting firm on two topics, which are shown below:

**Q1:** *SSAP No. 93R paragraph 3 makes references to SSAP Nos. 26R and 48. Should this also include a reference to SSAP 94R for purchased credits?*

NAIC Staff noted that paragraph 3 is intended to be a redirect for investments which failed to meet the criteria in paragraph 2. Purchased tax credits wouldn't need to be considered under SSAP No. 93R as they aren't an investment structure. As stated in footnote 1 of SSAP No. 94R, a purchased tax credit typically refers to tax credits acquired via certification or transfer form. Whether purchased or allocated, tax credits are not an investment but rather a type of other than invested asset.

**Q2:** *SSAP No. 93R paragraph 14(iv) states, "The admissibility of tax credits are subject to SSAP No. 101." Is this meant to apply to federal credit carryovers only? If so, suggest clarifying this.*

NAIC Staff noted that SSAP No. 101 is applicable to both state and federal tax liabilities per the scope of statement in paragraph 1. While the majority of SSAP No. 101 pertains to federal taxes, paragraph 4 provides guidance on state taxes. Per SSAP No. 101 paragraph 4, the guidance is applicable to state taxes, including income and premium, and the last two sentences of the paragraph address the admissibility of state tax recoverables. The Working Group would consider an unused state tax credit to be synonymous with a state tax recoverable when applying this guidance.



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31. On August 13, 2024, the Working Group exposed agenda item 2024-18 which proposes clarifying revisions to the adopted changes detailed agenda item 2022-14. These revisions would be effective 1/1/2025 and include:

- a. Revisions to SSAP No. 94R accounting guidance as comments noted it was inconsistent with the journal entry examples.
- b. Revisions to SSAP No. 93R accounting guidance for recognizing allocated tax credits as comments noted it confusing when compared to the journal entry examples.
- c. Revisions to SSAP No. 48 Scope paragraph as it was noted that one sentence was accidentally not updated as part of the New Market Tax Credit project.

**Effective Date**

32. The new concept revisions to SSAP No. 93 and SSAP No. 94R and clarifying revisions to SSAP No. 34 and SSAP No. 48 are contained in Exhibit A. Users of the *Accounting Practices and Procedures Manual* should note that issue papers are not represented in the Statutory Hierarchy (see Section IV of the Preamble) and therefore the conclusions reached in this issue paper should not be applied until the corresponding revisions to SSAP No. 93 and SSAP No. 94R have been adopted by the Plenary of the NAIC. SSAP No. 93R is effective on January 1, 2025, no early adoption permitted. SSAP No. 94R is effective on January 1, 2025, with early adoption permitted.

**RELEVANT STATUTORY ACCOUNTING AND U.S. GAAP GUIDANCE**

**Statutory Accounting**

- *SSAP No. 93R—Investments in Tax Credit Structures*
- *SSAP No. 94R—Transferable and Non-Transferable Tax Credits*

**Generally Accepted Accounting Principles**

- *FASB Accounting Standards Update No. 2023-02*

33. FASB issued ASU 2023-02 to allow reporting entities to consistently account for equity investments made primarily for the purpose of receiving income tax credits and other income tax benefits. Prior to ASU 2023-02, U.S. GAAP allowed for the option to apply the proportional amortization method to tax equity investments, but the option was limited to investments in low-income-housing tax credit (LIHTC) structures. The amendments in ASU 2023-02 remove this limitation and permit reporting entities to elect to account for their tax equity investments, regardless of the tax credit program from which the income tax credits are received, using the proportional amortization method if certain conditions are met.

34. The proportional amortization method results in the cost of the investment being amortized in proportion to the income tax credits and other income tax benefits received, with the amortization of the investment and the income tax credits being presented net in the income statement as a component of income tax expense (benefit). Equity investments in other tax credit structures are typically accounted for using the equity method or Topic 321, Investments—Equity Securities, which results in investment income, gains and losses, and tax credits being presented gross on the income statement in their respective line items.

35. Stakeholders asserted that tax equity investors in economically similar investments that are made primarily for the purpose of receiving income tax credits and other income tax benefits should have the same election as LIHTC investors to account for those investments using the proportional amortization method. In their view, the proportional amortization method provides investors, lenders, creditors, and other allocators of capital (collectively, “investors”) with a better understanding of the returns from such investments than the equity method or Topic 321. Because of the current limitation on the application of the proportional amortization method to account only for eligible LIHTC investments, stakeholders asked that the Board allow reporting entities to elect to apply the proportional amortization method to account for tax equity investments that generate income tax credits through other tax credit programs.

[https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National Meetings/A. National Meeting Materials/2024/08-13-24 Summer National Meeting/Meeting/A - 22-14 - Issue Paper 1xx - NMTC Project.docx](https://naiconline.sharepoint.com/teams/FRSStatutoryAccounting/National%20Meetings/A.%20National%20Meeting%20Materials/2024/08-13-24%20Summer%20National%20Meeting/Meeting/A%20-%2022-14%20-%20Issue%20Paper%201xx%20-%20NMTC%20Project.docx)

IP No. **xxx**

Issue Paper

**EXHIBIT A – TRACKED REVISIONS TO SSAP NO. 93**

**Statements of Statutory Accounting Principles No. 93<sup>R</sup>**

**~~Low Income Housing Tax Credit Property~~ Investments in Tax Credit Structures**

**STATUS**

Type of Issue..... Common Area  
Issued ..... June 13, 2005; Conceptually revised March 16, 2024  
Effective Date ..... January 1, 2006 Conceptual revisions detailed in Issue Paper No. **xxx** effective January 1, 2025  
Affects..... No other pronouncements  
Affected by..... No other pronouncements  
Interpreted by ..... INT 06-07  
Relevant Appendix A Guidance ..... None

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<b><del>STATUS</del></b> .....	<b>1</b>
<b><del>SCOPE OF STATEMENT</del></b> .....	<b>1</b>
<b><del>SUMMARY CONCLUSION</del></b> .....	<b>2</b>
Accounting .....	2
Impairment .....	3
Audited Financial Statements .....	4
Disclosures .....	4
Relevant Literature .....	5
Effective Date and Transition .....	7
<b><del>REFERENCES</del></b> .....	<b>7</b>
Relevant Issue Papers .....	7
<b><del>EXHIBIT A – LOW INCOME HOUSING TAX CREDIT PROPERTY INVESTMENTS</del></b> .....	<b>8</b>

<b>STATUS.....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
<b>SCOPE OF STATEMENT .....</b>	<b>30</b>
<b>SUMMARY CONCLUSION.....</b>	<b>30</b>
Accounting .....	31
Application of Proportional Amortization Method.....	32
Admittance of Tax Credit Investments.....	32
Future Contributions and Additional Tax Credits .....	34
Impairment of Tax Credit Investments .....	35
Disclosures .....	36
Relevant Literature .....	37
Effective Date and Transition .....	Error! Bookmark not defined.
Glossary.....	38
<b>REFERENCES .....</b>	<b>ERROR! BOOKMARK NOT DEFINED.</b>
Relevant Issue Papers .....	Error! Bookmark not defined.
<b>EXHIBIT A – APPLICATION OF PROPORTIONAL AMORTIZATION METHOD .....</b>	<b>40</b>

## SCOPE OF STATEMENT

~~1. This statement establishes statutory accounting principles for investments in federal and certain state sponsored Low Income Housing Tax Credit (LIHTC) properties owned through limited liability entities that are flow-through entities for tax purposes. State sponsored LIHTC programs that have the following characteristics are within the scope of and shall be accounted for in accordance with this statement:~~

- ~~a. The program is based upon Internal Revenue Code (IRC) section 42.~~
- ~~b. The investment requires an ongoing interest in a limited liability entity, which is a flow-through entity, and cannot be transferred apart from this interest.~~
- ~~c. Resale value of the investment is not based upon the fair value of the underlying real estate.~~
- ~~d. Fair value of the investment is directly tied to the remaining stream of tax credits and deductible losses available to investors.~~
- ~~e. The critical element of value is known with a high degree of certainty before being marketed to investors.~~
- ~~f. The proportional amortization method (as modified by this statement) is more indicative of liquidation value than the equity method.~~

~~State sponsored LIHTC programs requiring ownership in a partnership or limited liability entity that do not have the foregoing characteristics shall continue to be accounted for in accordance with the requirements of SSAP No. 48 Joint Ventures, Partnerships and Limited Liability Companies.~~

~~2. Some states have enacted laws that create programs by which transferable and non-transferable state tax credits are granted to entities under certain specified conditions (e.g., an entity makes an investment in a particular industry). Investments in transferable and non-transferable state tax credits are~~

~~not within the scope of this statement. See SSAP No. 94R—Transferable and Non-Transferable State Tax Credits.~~

## **SUMMARY CONCLUSION**

~~3. LIHTC investments held by reporting entities meet the definition of an asset as specified in SSAP No. 4—Assets and Nonadmitted Assets and are admissible assets to the extent that they comply with the requirements of this statement.~~

~~4. Resale valuation of these investments is based on the present value of the future stream of tax credits and deductible losses, and not the fair value of the underlying real estate.~~

~~5. Investors in entities that manage or invest in low income housing projects receive tax benefits in the form of tax deductions from operating losses and tax credits. The tax credits are allowable on the tax return each year over a 10-year period as a result of renting a sufficient number of units to qualifying tenants and are subject to restrictions on gross rentals paid by those tenants. These credits are subject to recapture over a 15-year period starting with the first year tax credits are earned. Corporate investors generally purchase an interest in a limited liability entity that manages or invests in the low-income housing projects.~~

## **Accounting**

~~6. LIHTC investments shall be initially recorded at cost and carried at proportional amortized cost as specified in this statement unless considered impaired as discussed in paragraphs 16–19. An illustration has been provided in Exhibit A of this statement.~~

~~7. A reporting entity investor using the proportional amortized cost method shall amortize any excess of the carrying amount of the investment over its estimated residual value during the periods in which tax benefits are allocated to the investor. The estimated residual value used in determining the amount to be amortized is the estimated residual value at the end of the last period in which tax benefits are allocated to the investor and should not reflect anticipated inflation. Annual amortization shall be based on the proportion of tax benefits received in the current year to total estimated tax benefits to be allocated to the investor. The amortization amount shall be calculated as follows:~~

- ~~a. The initial investment balance less any expected residual value of the investment, multiplied by;~~
- ~~b. The percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the life of the investment.~~

~~8. Under the proportional amortized cost method, the amortization of the investment in the limited liability entity is recognized in the income statement as a component of net investment income/expense. The current tax credit (or benefit) shall be accounted for as a component of income tax expense.~~

~~9. Federal tax credits shall be recognized in the income statement as an offset to federal taxes in the tax reporting year in which the tax credit is utilized in accordance with SSAP No. 101—Income Taxes. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized. Tax benefits received, other than tax credits, shall be accounted for pursuant to SSAP No. 101.~~

~~10. At the time of initial investment, immediate recognition of the entire benefit of the tax credits to be received during the term of an investment in a low income housing project is not appropriate. (That is,~~

~~low income housing tax credits shall not be recognized in the financial statements before their inclusion in the investor's tax return.)~~

~~11. Many LIHTC investments require future equity contributions by the investor (equity contributions), that may be contingent on a variety of conditions, such as receiving representations, contract performance, meeting occupancy requirements, etc. If the commitment by the investor to provide equity contributions meets the definition of a liability as defined in SSAP No. 5R Liabilities Contingencies and Impairments of Assets, a liability shall be recorded.~~

~~12. If the commitment to provide equity contributions does not meet the definition of a liability, the contingent commitment shall be disclosed in the notes to the financial statements with other contingent commitments. A liability shall also be recognized for equity contributions that are contingent on a future event when that contingent event becomes probable.~~

~~13. Additional funding that does not result in additional tax credits for the reporting entity (investor) shall be expensed as a component of net investment income. In the event a reporting entity obtains additional tax credits for a LIHTC investment, the following shall be applied:~~

~~a. If additional tax credits are allocated without additional funding, the additional tax credits shall not be afforded any value; rather, the tax benefit is only recognized when realized.~~

~~b. If additional funding directly related to the additional tax credits is required, the provisions of this statement shall be followed as if the additional funding were a new investment in LIHTC property.~~

~~14. An investment amortized to residual value in accordance with paragraph 7 of this statement shall not be revalued under any other method during or subsequent to the amortization period, other than as discussed in this statement.~~

~~15. Changes in estimated losses shall be accounted for in accordance with SSAP No. 3 Accounting Changes and Corrections of Errors as a change in estimate and included as a component of net investment income.~~

## **Impairment**

~~16. Reporting entities with investments in LIHTC properties shall complete and document an impairment analysis at each reporting period. If it is determined that an impairment exists, the book value of the LIHTC investment shall be compared to the present value of future tax benefits discounted at a risk free rate of return, i.e., the rate on U.S. Treasury obligations of a similar duration, and the investment shall be written down if the book value is higher. This will result in a new cost basis and the amount of the write down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries in fair value.~~

~~17. Among other things, an other than temporary impairment<sup>(INT-06-07)</sup> shall be considered to have occurred if it is probable that future tax benefits will not be received as expected. For example, for LIHTC properties based on state tax credits, if the reporting entity intends to decrease premium volume in that state, it may affect whether or not the tax credits in that state are realizable. The best available information about market share or premiums by state and premiums by line of business generally should be used to estimate the amount of future tax credits that are realizable. For purposes of determining impairment, future tax benefits consist of both estimated tax losses and anticipated tax credits. Loan default or a reasonable probability of credit recapture would signify that tax benefits would not be received as expected.~~



~~18. In a multi-tiered partnership, whereby one limited partnership exists only to hold interests in other limited partnerships that are each invested in different developments, the impairment should be determined at the lowest tier. The partnership that holds the assets in which the impairment is determined to exist will be adjusted to a new cost basis representing the lower of book value or the present value of future tax benefits discounted at a risk-free rate of interest. This new cost basis and related realized loss shall be recognized by the holder of a LIHTC investment.~~

~~1. It should be noted that a foreclosure of a single property within an LIHTC investment fund only affects the loss of tax credits on a proportional basis. For example, a foreclosure of one property in a six-property fund generating equal levels of credits would only eliminate 1/6 of the credits, thereby, only affecting 1/6 of the LIHTC investment fund value to the individual investors.~~

### ~~Audited Financial Statements~~

~~2. The reporting entity's return and book value of an LIHTC investment is reliant upon maintaining tax credit eligibility and not its share of the equity as reported on a financial statement. As such, a reporting entity shall monitor the tax credit eligibility of an LIHTC investment through requiring either audited GAAP or audited tax basis financial statements. In the event an audited GAAP or audited tax basis financial statement is not obtained, the asset shall be nonadmitted.~~

### ~~Disclosures~~

~~3. Disclose the number of remaining years of unexpired tax credits and the required holding period for the LIHTC investments.~~

~~4. Disclose the amount of low-income housing tax credits and other tax benefits recognized during the years presented.~~

~~5. Disclose the balance of the investment recognized in the statement of financial position for the reporting period(s) presented.~~

~~6. Disclose if the LIHTC property is currently subject to any regulatory reviews and the status of such review. (Example investigations by the housing authority.)~~

~~7. Any commitment or contingent commitment (e.g., guarantees or commitments to provide additional capital contributions) including the amount of equity contributions that are contingent commitments related to LIHTC properties investments and the year(s) that contingent commitments are expected to be paid shall be disclosed.~~

~~8. The significance of an investment to the reporting entity's financial position and results of operations shall be considered in evaluating the extent of disclosures of the financial position and results of operations of an investment in a LIHTC. If in the aggregate the LIHTC investments exceed 10% of the total admitted assets of the reporting entity the following disclosures shall be made:~~

- ~~a. (i) The name of each partnership or limited liability entity and percentage of ownership,~~
- ~~(ii) the accounting policies of the reporting entity with respect to investments in partnerships and limited liability entities (iii) the difference, if any, between the amount at which the investment is carried and the amount of underlying equity in net assets (i.e., nonadmitted goodwill or other nonadmitted assets) and (iv) the accounting treatment of the difference;~~

- ~~b. For partnerships, and limited liability entities for which a quoted fair value is available, the aggregate value of each partnership, or limited liability entity investment based on the quoted fair value; and~~
  - ~~c. Summarized information as to assets, liabilities and results of operations for partnerships, and limited liability entities, either individually or in groups.~~
- ~~9. A reporting entity that recognizes an impairment loss shall disclose the following in the financial statements that include the period of the impairment write-down:~~
- ~~a. A description of the impaired assets and the facts and circumstances leading to the impairment; and~~
  - ~~b. The amount of the impairment and how fair value was determined.~~
- ~~10. Disclose the amount and nature of the write-downs or reclassifications made during the year resulting from the forfeiture or ineligibility of tax credits, etc. These write-downs may be based on actual property level foreclosure, loss of qualification due to occupancy levels, compliance issues with tax code provisions within an LIHTC investment, or other issues.~~
- ~~11. Refer to the Preamble for further discussion regarding disclosure requirements.~~

#### Relevant Literature

- ~~12. This statement adopts with modification *ASU 2014-01, Investments—Equity Method and Joint Ventures (Topic 323): Accounting for Investments in Qualified Affordable Housing Projects*. The modifications include:~~
- ~~a. ASU 2014-01 allows the election of using the proportional amortization method if an affordable housing project investment meets several criteria, including the lack of significant influence. This statement requires the proportional amortization method, with modifications as discussed in this statement, for all investments within its scope. Although the terminology is updated, the balance sheet amount and timing of amortization should be the same under this statement and the proportional amortization method in ASU 2014-01.~~
  - ~~b. The proportional amortization method in ASU 2014-01 utilizes a net presentation in the income statement by including the amortized initial cost of the investment and the tax credits and benefits received within income tax expense. This statement requires a gross presentation on the income statement, with proportional amortization of the initial cost of the investment in investment income and the tax credits and benefits included in income tax expense.~~
  - ~~c. Paragraphs 323-740-50-2c and 323-740-50-2d related to disclosures of the optionality of the method used and net reporting, are rejected as not applicable to statutory accounting.~~
  - ~~d. Disclosures should be followed as indicated in the disclosures section in this statement.~~
- ~~13. This statement adopts with modification *EITF 94-1: Accounting for Tax Benefits from Investments in Affordable Housing Projects* as applicable to statutory accounting to the extent it is not modified by ASU 2014-01. In 2006, this statement modified *Issue Paper No. 99—Nonapplicable GAAP Pronouncements* to remove the reference to EITF 94-1.~~

14. ~~ASU 2014-01 and EITF 94-1 are modified for the following statutory concepts:~~

- a. ~~The elective effective yield method and the net income statement reporting in EITF 94-1 are rejected. The elective proportional amortization method in ASU 2014-01, which replaced the effective yield method, is required for only the balance sheet calculation reflecting the timing and amount of amortization. The proportional amortization method net income statement reporting in ASU 2014-01 is rejected for statutory accounting.~~
- b. ~~Investments that meet the criteria of this statement are required to use a proportional amortization method as prescribed in this statement. This method requires the tax credits and benefits to be recognized in proportion to the percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the life of the investment. This statement requires a gross presentation on the financial statements, with amortization in investment income.~~
- c. ~~Federal tax credits shall be recognized in the income statement as an offset to federal income taxes in the tax reporting year in which the tax credit is utilized in accordance with SSAP No. 101 *Income Taxes*. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized.~~
- d. ~~Tax benefits received, other than tax credits, shall be accounted for pursuant to SSAP No. 101. Amortization shall be reported as a component of net investment income.~~
- e. ~~Reporting entities shall follow the guidance in paragraphs 11 and 12 regarding the application of the definition of a liability and contingent commitments from SSAP No. 5R *Liabilities Contingencies and Impairments of Assets* to equity contributions.~~
- f. ~~SSAP No. 97 *Investments in Subsidiary, Controlled and Affiliated Entities* shall be utilized to account for investments that qualify as subsidiary, controlled or affiliated entities.~~
- g. ~~The impairment guidance contained in this statement shall be followed.~~
- h. ~~For statutory accounting purposes, deferred taxes are not reported as a component of income from continuing operations in the income statement; rather deferred taxes are recognized as a separate component of gains and losses in unassigned funds (surplus).~~

15. ~~AICPA Statement of Position 78-9, *Accounting for Investments in Real Estate Ventures* (SOP 78-9) is rejected for purposes of statutory accounting in SSAP No. 48. This statement does not intend to establish SOP 78-9 as applicable to statutory accounting.~~

16. ~~FASB Interpretation No. 46, *Consolidation of Variable Interest Entities* (FIN 46) is rejected for purposes of statutory accounting in SSAP No. 3. This statement does not intend to establish FIN 46 as applicable to statutory accounting.~~

17. ~~EITF 85-16: *Leveraged Leases* (EITF 85-16) is adopted for purposes of statutory accounting in SSAP No. 22R *Leases*. This statement does not intend to readdress the conclusions reached in SSAP No. 22R.~~

## SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for qualifying tax credit investments<sup>2</sup> in programs made primarily for the purpose of receiving allowable general business federal tax credits and/or state tax credits, including state premium tax credit programs. Although these investments are often in the form of equity, this statement shall be applied to all investments (regardless of the structure of the investment) that qualify pursuant to paragraph 2.

2. A reporting entity that invests in projects or programs that generate general business federal tax credits, corresponding state tax credits or state premium tax credits that meet the following conditions at the time of initial investment are required to capture the investment in scope of this statement:

- a. It is probable that the tax credits allocable to the investor will be available.
- b. Reporting entity investor does not have the ability to exercise significant influence over the operating and financial policies of the underlying projects.
- c. Substantially all the projected benefits are from tax credits and other tax benefits, determined on a discounted basis using a discount rate that is consistent with the cash flow assumptions utilized by the reporting entity for the purpose of deciding to invest in the project.
- d. The reporting entity's projected yield based solely on the cash flows from the tax credits and other tax benefits is positive.

3. Tax credit investments that do not meet the conditions in paragraph 2 shall be captured within the statutory accounting statement that addresses the underlying investment structure. Equity structured tax credit investments would generally fall within SSAP No. 48—*Joint Ventures, Partnerships and Limited Liability Companies*. Debt structured tax credit investments should be assessed in accordance with SSAP No. 26R—*Bonds* to determine eligibility for reporting as a bond.

4. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors, to make venture capital investments in "qualified" businesses, are not within the scope of this statement. Although associated with tax credits, the reporting entity is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the reporting entity will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with *Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)* and specific statutory accounting guidance addressing CAPCOs.

## SUMMARY CONCLUSION

5. Investments in tax credit structures are generally acquired to obtain a positive yield through tax credits and other tax benefits. The value of the investment is primarily based on the value of the remaining stream of tax credits and deductible expenses available to the reporting entity investor. The

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<sup>2</sup> The scope of ASC 323-740—*Investments—Equity Method and Joint Ventures—Income Taxes—Proportional Amortization Method* only extends to income tax equity investments, whereas this statement is intended to capture all tax credit investments which meet the criteria in paragraphs 2.a.-2.d., regardless of structure. This includes, but is not limited to, tax equity investments and tax credit debt investments.

primary purpose of investing in these tax credit structures is to generate tax credits which benefit reporting entities, most commonly through a reduction in tax liability or, when permitted by IRS or state tax provisions, through the sale of certificated/transferable tax credits.

6. Investments in tax credit structures held by reporting entities meet the definition of an asset as specified in SSAP No. 4—Assets and Nonadmitted Assets and are admissible assets to the extent that they comply with the requirements of this statement.

### Accounting

7. This guidance addresses the methodology for measuring an investment that is accounted for using the proportional amortization method. At initial recognition, investments in scope of this statement shall be recorded at cost.

8. Subsequent to initial recognition, the investment shall be carried at proportional amortized cost. Under the proportional amortization method, the reporting entity amortizes the initial cost of the investment in proportion to the tax credits and other tax benefits allocated to the investor. The amortization amount shall be calculated as follows:

- a. The initial investment balance less any expected residual value of the investment, multiplied by;
- b. The percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be received by the reporting entity over the amortization timeframe (life of the investment).

9. Reporting entities shall recognize tax credits in the period they are allocated to the investor for tax purposes. Unless all tax credits are allocated to the reporting entity at the date of initial investment, immediate recognition of the entire benefit of the tax credits to be received during the term of the investment project that generates tax credits and other tax benefits is not permitted. Tax credits shall not be recognized in the financial statements before the year in which the tax credits are allocated.

10. Any expected residual value of the investment shall be excluded from the proportional amortization calculation. Non-tax related benefits received from the investment shall be included as a component of net investment income when realized or realizable. Gains or losses on the sale of the investment, if any, shall be included as a capital gain or loss at the time of the sale. Determination of gain or loss will depend on the reported value (e.g., residual value at the end of the amortization timeframe) compared to the amount received in exchange for the investment. Liquidation of the investment commonly occurs at the end of the tax credit timeframe through a put or call agreement, often reflecting a nominal residual value that was established at the time of acquisition. The liquidation amount from such agreements shall reflect the expected residual value when available.

11. At the end of the amortization timeframe, if the reporting entity retains the investment, the investment shall be subsequently measured and assessed within the statutory accounting statement applicable to the investment held. Retained investments will remain on Schedule BA until disposal and cannot exceed the initial expected residual value.

12. Exhibit A illustrates the application of accounting guidance in two examples that generate tax credits and tax benefits using the proportional amortization method. The first example illustrates the application of a standard project. The second example illustrates the application of accounting guidance in a project that has expected residual value and generates non-tax related benefits in addition to tax credits and other tax benefits using the proportional amortization method.

### Application of Proportional Amortization Method

13. Under the proportional amortized cost method, the amortization of the investment is to be recognized in the income statement as an expense component of the net investment income calculation. Non-tax related benefits received from operations, or sale of the investment should be accounted for in accordance with paragraph 10.

14. Tax credits and other tax benefits, not to include amortization of the investment, shall be reflected as follows:

*Drafting Note:* The proposed revisions in agenda item 2024-18 would revise paragraphs 14.a.i. through 14.a.iii., and, if adopted, would also be effective 1/1/2025.

- a. Tax credits shall be recognized in the period that they are allocated to the reporting entity for tax purposes:
  - i. Federal tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to federal taxes in accordance with SSAP No. 101—Income Taxes. Federal tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with SSAP No. 101.
  - ii. State tax credits that can be utilized in the year allocated shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested assets (not to be reported net).
  - iii. Use of tax credits carried forward in a future period shall be reflected as an offset to the corresponding income or premium tax in the tax reporting year in which the tax credit is utilized.
  - iv. Tax credits allocated from tax credit investments, as defined within this SSAP, and held by reporting entities meet the definition of assets as specified in SSAP No. 4 and are admitted assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to SSAP No. 101.
- b. Federal tax benefits other than tax credits (e.g., tax benefits from investment depreciation) shall be recognized in the year allocated pursuant to SSAP No. 101. When utilized, the federal tax benefits are recognized as a component of income tax expense.
- c. State tax benefits other than tax credits shall be recognized in the year allocated gross of any related state tax liabilities pursuant to SSAP No. 101. When utilized, the state tax benefits are recognized as a component of taxes, licenses, and fees.

### Admittance of Tax Credit Investments

15. Although investments in tax credit programs do not represent investments that can be readily liquidated for policyholder claims, the reduction of tax liability or sale of allocated tax credits represents a benefit that supports admittance of these investments, but only if the tax credits will be received and can be utilized by the reporting entity. Investments in tax credit programs that will not result in any of the



anticipated tax credits or that will result in tax credits which cannot be utilized or sold by the reporting entity shall be considered impaired and should refer to paragraphs 27 and 28.

16. Reporting entities shall, at initial investment, obtain a clean<sup>3</sup> fund level tax opinion<sup>4</sup> on the validity of the credits and structure of the underlying program and investment fund. Investments not supported by an initial tax opinion shall be nonadmitted. If the program is a permitted syndicated program with a yield guarantee, the opinion must verify that the investment and guarantee have been properly structured under IRS or state tax provisions and the guarantee does not disqualify the reporting entity from obtaining the tax credits.

17. Reporting entities shall annually obtain U.S. GAAP or U.S. tax basis audited financial statements on the investment fund. In the event audited U.S. GAAP or U.S. tax basis financial statements are not obtained or the audit receives an opinion other than unqualified, the asset shall be nonadmitted. If the audited financial statements are in-process but not completed as of the annual statement filing deadline, the reporting entity may admit the investment based on the results of the immediately preceding prior year audited financial statements. A lag in reporting shall be consistent from period to period.

- a. Other tax credit investments – If the reporting entity has a tax credit investment which by virtue of its structure cannot be audited, the investment is exempt from the annual audit requirement. One example of this type of investment would be tax credit debt investments<sup>5</sup> which do not involve any amount of equity ownership as a component of the investment. This type of tax credit debt investment is exempt from the annual audit requirement, but the reporting entity is still required to obtain a clean tax opinion, in accordance with paragraph 16, to support admittance at initial investment.

#### Prospective Utilization Assessment

18. The prospective utilization assessment, as detailed below in paragraphs 19-21, must be performed annually by the reporting entity if any of the following circumstances exist in either the current or prior reporting period:

- a. Reporting entity records a valuation allowance against a deferred tax asset (DTA) balance.
- b. Reporting entity becomes aware of other facts and circumstances which indicate that it will, more likely than not, be unable to substantially utilize the unallocated tax credits. Such instances include, but are not limited to:
- i. If the reporting entity holds an investment which allocates state premium tax credits and intends to decrease premium volume in that state, it may affect whether or not the unallocated tax credits in that state can be utilized.

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<sup>3</sup> While not quantified or defined in either the Internal Revenue Code or state regulations, common industry standards consider a “should” opinion to be the minimum degree of confidence associated with a clean tax opinion. For the purposes of this statement, a “should” opinion must represent a probability of success no less 70%. Any tax credit investment which receives a tax opinion with a degree of confidence less than “should” is to be nonadmitted.

<sup>4</sup> A fund level tax opinion for the purposes of this statement is defined as a full IRS Circular 230 tax opinion which covers from the fund level through to the underlying assets generating the tax credit benefits. The fund level is defined as the entity, or level, at which the investor comes directly into the investment without any intermediaries.

<sup>5</sup> Common examples of tax credit debt investments are Tax Credit Strips derived from tax credit bonds, Qualified Tax Credit Bonds, and Build America Tax Credit Bonds. Tax opinions received on these tax credit investments are also referred to as “bond counsels.” Tax Credit Strips derived from tax equity investments would not qualify for the paragraph 17.a. carve out as the source of the stripped tax credits is auditable.

- ii. If the reporting entity holds an investment allocating state income tax credits and records a valuation allowance in its U.S. GAAP financial statements against state DTA balances, including the same state as the tax credit investment, it cannot ignore the circumstances that led to the valuation allowance, even though statutory accounting does not permit state DTAs.

19. Prospective Utilization Assessment – If any of the circumstances detailed in paragraph 18 exist, the reporting entity is required to assess the future utilization of the investment’s unallocated tax credits against estimated tax liabilities and determine the extent to which it will be able to utilize the investment’s unallocated tax credits over the life of the tax credits. If assessment projections identify that the investment’s unallocated tax credits will exceed what can be utilized under IRS or state tax provisions, the reporting entity shall nonadmit investments as necessary so that investments in scope of this statement (in aggregate) are only admitted to the extent tax credits are expected to be utilized within current, carryback, and carryforward periods. In making this assessment, the reporting entity is not permitted to assume increased operations (e.g., expanded product sales) beyond those allowed under prudent and feasible tax-planning strategies to conclude that additional federal or state tax liability will exist that would allow additional utilization of tax credits. A reporting entity may subsequently admit a previously nonadmitted tax credit investment, based on subsequent assessments in which the reporting entity determines that they will be able to utilize the unallocated tax credits.

20. Additional Admittance to Prospective Utilization Assessment – If the tax credit investment allocates tax credits with the following features, the reporting entity may perform a secondary assessment to determine if additional amounts of the tax credit investment nonadmitted under paragraph 19 can be admitted:

- a. Tax credit investments which allocate tax credits which are certificated or transferable in accordance with permitted IRS or state tax provisions shall admit up to the lesser of the proportional amortized cost or fair value of the unallocated tax credits.
- b. Tax credit investments which allocate tax credits eligible for direct payment shall admit up to the lesser of the proportional amortized cost or the estimated proceeds from unallocated tax credits.

21. For tax credit investments which have an amortization timeframe greater than the tax credit allocation timeframe (as demonstrated in Exhibit A), the reporting entity would still, if required, perform the prospective utilization assessment but on the reporting entity’s ability to utilize the remaining stream of anticipated tax benefits.

### Future Contributions and Additional Tax Credits

22. Many tax credit investments require future contributions by the investor, that may be contingent on a variety of conditions, such as receiving representations, contract performance, meeting occupancy requirements, etc. A liability shall be recognized for delayed contributions which result in additional tax credits that are unconditional and legally binding, and a liability shall also be recognized for contributions which result in additional tax credits that are contingent upon a future event when that contingent event becomes probable pursuant to the loss contingency guidance in SSAP No. 5R—*Liabilities, Contingencies and Impairments of Assets*. Liabilities or loss contingencies recognized for future contributions which result in additional tax credits shall be reported as ‘Payable for Securities’ until remitted or until the obligation is otherwise eliminated.

23. If a commitment to provide future contributions is not required to be recognized pursuant to paragraph 22, the commitment shall be disclosed in the notes to the financial statements with other commitments.

24. Additional contributions that do not result in additional tax credits for the reporting entity investor shall be immediately expensed as a component of net investment income.

25. If additional contributions result in additional tax credits for the reporting entity, the proportional amortization method for the tax credit investment shall be adjusted, on a prospective basis, to reflect the increased cost with the revised expected tax credits and other tax benefits.

26. In the event a reporting entity obtains additional tax credits without the reporting entity making additional contributions, the reporting entity shall not adjust the book/adjusted carrying value of the tax credit investment. (The proportional amortization method shall not be adjusted to reflect the expected additional tax credits.) Rather, the tax credit shall be recognized when allocated pursuant to paragraph 14.

### **Impairment of Tax Credit Investments**

27. Reporting entities with investments in tax credit programs shall complete and document an impairment analysis at each reporting period. For this analysis, the reporting entity shall compare the current book/adjusted carrying value to the fair value of the investment. (If fair value is not determinable, an entity can compare book/adjusted carrying value to the present value of future tax credits and other tax benefits discounted at a risk-free rate of return.) If book/adjusted carrying value is higher, the difference between book/adjusted carrying value and fair value shall be recognized as an other-than-temporary impairment<sup>(INT 06-07)</sup> to the tax credit investment. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries in fair value.

28. An other-than-temporary impairment shall also be considered to have occurred if a previously allocated tax credit has been recaptured or if it is probable that future tax credits will not be allocated as expected. If a project no longer qualifies for tax credits, the entire investment, less any residual established at initial recognition, shall be written off as other-than-temporarily impaired. If the reporting entity experiences a tax credit recapture, the reporting entity shall assess whether future tax credits and other benefits will qualify for use by the reporting entity. If future credits will not be generated or will be subject to future recapture, then the reporting entity shall write-off the investment as other-than-temporarily impaired so that the resulting investment value only reflects expected qualifying tax credits and other benefits expected to be allocated. This will result in a new cost basis and the amount of the write-down shall be accounted for as a realized loss. The new cost basis shall not be changed for subsequent recoveries or revision to tax credit expectations.

29. Certain tax credit programs allocate variable amounts of tax credits (for example, clean energy production tax credit programs) which will result in regular differences between actual allocated tax credits and estimated tax credit allocations as calculated upon acquisition of the investment. Variable tax credits allocated in excess of estimates should be accounted for in accordance with paragraph 26. If the allocated variable tax credits are less than estimates by more than 10% or consistently allocate less than the estimated amounts over multiple allocation periods, then the reporting entity must either recognize an other-than-temporary impairment or specifically address within its impairment analysis the reason why consistently diminished tax credit returns do not represent an impairment event. Note that if the company determines it is probable that the total amount of anticipated variable tax credits will not be received, it would still be considered an other-than-temporary impairment in accordance with paragraph 28.

Disclosures

30. A reporting entity shall disclose information that enables users of its financial statements to understand the following information about its investments in projects that generate tax credits and other tax benefits from tax programs captured in scope of this statement:

- a. The nature of its investments in projects that generate tax credits and other tax benefits.
- b. The effect of the recognition and measurement of its investments in projects that generate tax credits and other tax benefits and the related tax credits on its financial position and results of operations.

31. To meet the objective of paragraph 30, a reporting entity shall disclose the following information about its investments in projects that generate tax credits and other tax benefits from a tax credit program in scope of this statement:

- a. The amount of tax credits and other tax benefits recognized during the reporting period(s).
- b. The balance of the investments recognized in the statement of financial position for the reporting period(s) presented.
- c. The amount of investment amortization and non-income tax related activity recognized as a component of net investment income, and other returns allocated that were recognized outside of income tax expense.
- d. An aggregate schedule of tax credits expected to be generated each year for the subsequent five years and thereafter, disaggregated by transferable/certificated and non-transferable.
- e. Any commitment or contingent commitment (e.g., guarantees or commitments to provide additional capital contributions) including the amount of contributions that are contingent commitments related to tax credit investments and the year(s) that contingent commitments are expected to be paid shall be disclosed.

32. The following disclosures shall be included if applicable to tax credit investments:

- a. If the underlying project is currently subject to any regulatory reviews and the status of such review. (Example: Investigations by the housing authority.)
- b. Significant modifications or events that resulted in a change in the nature of the investment or a change in the relationship with the underlying project for investments in scope.

33. A reporting entity that recognizes an impairment loss shall disclose the following in the financial statements that include the period of the impairment write-down:

- a. A description of the impaired assets and the facts and circumstances leading to the impairment; and
- b. The amount of the impairment and how fair value was determined.

34. The following disclosures pertain only to those tax credits allocated from tax credit investments and are unused as of the reporting period(s). For purposes of this disclosure, total unused tax credits represent the entire amount of tax credits available:

- c. Carrying value of tax credits, disaggregated by transferable/certificated and non-transferable, gross of any related tax liabilities by jurisdiction and in total.
- d. Total unused tax credits by jurisdiction, disaggregated by transferable/certificated and non-transferable.
- e. Method of estimating utilization of remaining tax credits or other projected recovery of the current carrying value.
- f. Impairment amount recognized in the reporting period(s), if any.
- g. Identify tax credits by transferable/certificated and non-transferable classifications and identify the admitted and nonadmitted portions of each classification.

35. Refer to the Preamble for further discussion regarding disclosure requirements.

#### Relevant Literature

36. This statement adopts with modification *Accounting Standards Update (ASU) 2023-02, Accounting for Investments in Tax Credit Structures Using the Proportional Amortization Method*. The ASU is modified for the following statutory concepts:

- a. This statement is applicable to all federal and state tax credit programs earned through any tax credit investment structure that meets the requirements in paragraph 2. Under the ASU, use of the proportional amortization method is an election and only pertains to income tax equity investment structures in which the reporting entity does not exercise significant influence. With this statement, the U.S. GAAP election to use the proportional amortization method is rejected and use of proportional amortization for investments within the scope of this statement is required. The guidance is expanded for state premium tax credits.
- b. Investments that meet the criteria of this statement are required to use a proportional amortization method as prescribed in this statement. This method requires the tax credits and benefits to be recognized in proportion to the percentage of actual tax credits and other tax benefits allocated to the reporting entity in the current period divided by the total estimated tax credits and other tax benefits expected to be allocated by the reporting entity over the life of the investment. This statement requires a gross presentation on the financial statements. Under the ASU, a practical expedient is allowed for the calculation of proportional amortization but has been rejected with this statement.
- c. Federal tax credits shall be recognized in the income statement as an offset to federal income taxes in the tax reporting year in which the tax credit is utilized in accordance with SSAP No. 101. State tax credits shall be recognized in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax reporting year in which the credit is utilized.
- d. Tax benefits allocated, other than tax credits, shall be accounted for pursuant to SSAP No. 101. Amortization shall be reported as a component of net investment income.

- e. Reporting entities shall follow the guidance in paragraphs 22 and 23 regarding the recognition of contingent commitments from SSAP No. 5R to equity contributions.—.
- f. This statement has specific impairment and nonadmittance requirements.
- g. For statutory accounting purposes, deferred taxes are not reported as a component of income from continuing operations in the income statement; rather deferred taxes are recognized as a separate component of gains and losses in unassigned funds (surplus).
- h. Disclosures should be followed as indicated in the disclosures section in this statement.
- i. The examples detailed in Exhibit A were modified to better illustrate the statutory accounting method for tax credit investments.

### Effective Date and Transition

37. This statement is effective for reporting periods beginning on or after January 1, 2006. Early adoption is permitted. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—*Accounting Changes and Corrections of Errors*. The guidance previously in paragraph 3 of this statement superseded paragraph 1 of SSAP No. 48. In 2011, this guidance was moved to SSAP No. 48—*Joint Ventures, Partnerships and Limited Liability Companies* and deleted from this statement. The original guidance included in this standard is retained for historical purposes in Issue Paper No. 125. The guidance from ASU 2014-01 is effective for reporting periods beginning on or after January 1, 2015, with early adoption permitted.

38. In March 2024, new SAP concept revisions, as detailed in Issue Paper No. **xxx**, were adopted. These revisions, effective January 1, 2025, expanded the scope of SSAP No. 93R to include all federal and state tax credit investment structures and provide new guidance on the accounting, recognition, and reporting of tax credit investment structures. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credit investment structures to reflect the guidance in the conceptual revisions. Additionally, all tax credit investment structures which fall within the scope of this statement not currently reported on Schedule BA are to be transferred to Schedule BA as of the effective date.

### Glossary

39. The following definitions are provided for the purposes of this statement.

- a. Unallocated tax credits – The portion of tax credits expected to be earned and allocated to the reporting entity through the tax credit investment structure.
- b. Transferable/Certificated – The tax credits are certified for sale (certificated tax credits) or saleable through the execution of a state or federal transfer form (transferable tax credits).
- i.c. More Likely Than Not – Refers to a likelihood of more than 50%.



## REFERENCES

### Relevant Issue Papers

- *Issue Paper No. 125—Accounting for Low-Income Housing Tax Credit Property Investments*
- [\*Issue Paper No. xx—New Market Tax Credit Project\*](#)

**EXHIBIT A – APPLICATION OF PROPORTIONAL AMORTIZATION METHOD****Example 1: Qualifying Tax Credit Investment Structure**

On January 1, 20X1, ABC Insurance Company purchases a 5% equity stake in a tax credit investment structure for \$100,000. The allocated tax credits are transferable, and ABC anticipates that all tax credits received will be fully utilized prior to expiration of the tax credit carryover period.

**Assumptions:**

1. All cash flows (except initial investment) occur at the end of each year.
2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).
3. The investor made a \$100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.
4. The partnership finances the project cost of \$4,000,000 with 50% equity and 50% debt.
5. The annual tax credit allocation (equal to 4% of the project's original cost) will be received for a period of 10 years.
6. The investor's tax rate is 40%.
7. For simplicity, the project will operate with break-even pretax cash flows including debt service during the first 15 years of operations.
8. The project's taxable loss will be equal to depreciation expense. The cumulative book loss (and thus the cumulative depreciation expense) recognized by the investor is limited to the \$100,000 investment.
9. It is assumed that all requirements are met to retain allocable tax credits so there will be no recapture of tax credits.
10. The investor expects that the estimated residual value of the investment will be zero.

New Market Tax Credit Project

Proportional Amortization Method with Statutory Modifications

<u>Year</u>	<u>Net Investment</u> <u>(1)</u>	<u>Amortization of Investment</u> <u>(2)</u>	<u>Tax Credits</u> <u>(3)</u>	<u>Net Losses/Tax Depreciation</u> <u>(4)</u>	<u>Other Tax Benefits from Tax Depreciation</u> <u>(5)</u>	<u>Tax Credits and Other Tax Benefits</u> <u>(6)</u>
	100,000					
1	90,909	9,091	8,000	7,273	2,909	10,909
2	81,818	9,091	8,000	7,273	2,909	10,909
3	72,727	9,091	8,000	7,273	2,909	10,909
4	63,636	9,091	8,000	7,273	2,909	10,909
5	54,545	9,091	8,000	7,273	2,909	10,909
6	45,454	9,091	8,000	7,273	2,909	10,909
7	36,363	9,091	8,000	7,273	2,909	10,909
8	27,272	9,091	8,000	7,273	2,909	10,909
9	18,181	9,091	8,000	7,273	2,909	10,909
10	9,090	9,091	8,000	7,273	2,909	10,909
11	6,666	2,424		7,273	2,909	2,909
12	4,242	2,424		7,273	2,909	2,909
13	1,818	2,424		7,273	2,909	2,909
14	0	1,818		5,451	2,183	2,183
15	0					0
Total		100,000	80,000	100,000	40,000	120,000

- (1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).
- (2) Initial investment of \$100,000 x (total tax benefits allocated during the year in Column (6) / total anticipated tax benefits over the life of the investment of \$120,000).
- (3) Annual 4% tax credit on \$200,000 tax basis of the underlying assets.
- (4) Depreciation (on \$200,000 tax basis of the underlying assets) using the straight-line method over 27.5 years up to the amount of the initial investment of \$100,000.
- (5) Column (4) x 40% tax rate.
- (6) Column (3) + Column (5).

Initial Year

<u>Tax credit investment</u>	<u>100,000</u>	
<u>Cash</u>		<u>100,000</u>
<u>To record the purchase of tax credit investment</u>		
<u>Years 1-10</u>		
<u>Amortization expense</u>	<u>9,091</u>	
<u>Tax credit investment</u>		<u>9,091</u>
<u>Federal tax credits</u>	<u>8,000</u>	
<u>Income tax expense</u>		<u>8,000</u>

To record annual receipt of allocated tax credits and proportional amortization of investment.

<u>Income taxes payable</u>	<u>8,000</u>	
<u>Federal tax credits</u>		<u>8,000</u>

To record annual utilization of allocated tax credits.

Year 11-13

<u>Amortization expense</u>	<u>2,424</u>	
<u>Tax credit investment</u>		<u>2,424</u>

To record annual proportional amortization of tax credit investment.

Year 14

<u>Amortization expense</u>	<u>1,818</u>	
<u>Tax credit investment</u>		<u>1,818</u>

To record annual proportional amortization of tax credit investment.

**Example 2: Qualifying Tax Credit Investment Structure with Non-Income Tax Related Benefits**

On January 1, 20X1, T&A Insurance Company purchased a 5% equity stake in a tax credit investment structure for \$100,000. The allocated tax credits are non-transferable, and T&A anticipates that all tax credits received will be fully utilized prior to expiration of the tax credit carryover period.

Assumptions:

1. All cash flows (except initial investment) occur at the end of each year.
2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).
3. The investor made a \$100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.
4. The partnership will receive production tax credits based on the energy the project produces. The credits will be allocated over a four-year period.
5. The tax equity investor will receive cash proceeds based on 2% of the project's cash generated during the life of the investment.
6. The investor's tax rate is 40%.
7. All requirements are met to retain allocable income tax credits such that there will be no recapture of income tax credits.
8. All of the conditions are met to require use of the proportional amortization method.
9. After 10 years, the tax equity investor has a right to require that the project sponsor purchase the tax equity investor's equity interest for a nominal amount. It is assumed that the Put option will be exercised and has a contractually agreed upon residual value of \$1,000.
10. In Years 1-3 the investor is able to utilize all allocated tax credits in the same period they were received. In Year 4, the investor is only able to utilize half of that year's allocated tax credit and defers the remainder for utilization in Year 5.

IP No. xxx

Issue Paper

Proportional Amortization Method with Statutory Modifications

<u>Year</u>	<u>Net Investment</u> <u>(1)</u>	<u>Amortization of Investment</u> <u>(2)</u>	<u>Tax Credits</u> <u>(3)</u>	<u>Net Losses/Tax Depreciation</u> <u>(4)</u>	<u>Other Tax Benefits from Tax Depreciation</u> <u>(5)</u>	<u>Tax Credits and Other Tax Benefits</u> <u>(6)</u>	<u>Non-Tax Related Cash Returns</u> <u>(7)</u>
	100,000						
1	79,605	20,395	20,000	8,300	3,320	23,320	58
2	59,210	20,395	20,000	8,300	3,320	23,320	58
3	38,815	20,395	20,000	8,300	3,320	23,320	58
4	18,420	20,395	20,000	8,300	3,320	23,320	58
5	15,516	2,904		8,300	3,320	3,320	58
6	12,612	2,904		8,300	3,320	3,320	58
7	9,708	2,904		8,300	3,320	3,320	58
8	6,804	2,904		8,300	3,320	3,320	58
9	3,900	2,904		8,300	3,320	3,320	58
10	1,000	2,900		8,300	3,320	3,320	58
							580
<u>Total</u>	<u>1,000</u>	<u>99,000</u>	<u>80,000</u>	<u>83,000</u>	<u>33,200</u>	<u>113,200</u>	

- (1) End-of-year investment for a 5% limited liability interest in the project net of amortization in Column (2).
- (2) Initial investment, less residual value of \$1,000, of \$99,000 x (total tax benefits allocated during the year in Column (6) / total anticipated tax benefits over the life of the investment of \$113,200).
- (3) These tax credits have been generated through the production of electricity, which generates production tax credits. The tax equity investor is not receiving renewable energy credits or carbon offsets.
- (4) Depreciation /other tax losses passed on to the investor.
- (5) Column (4) x 40% tax rate.
- (6) Column (3) + Column (5).
- (7) Non-income-tax-related benefits recognized in current-period pre-tax earnings when allocated. This represents the cash proceeds allocated by the tax equity investor based on the cash generated from the project

Initial Year

<u>Tax credit investment</u>	<u>100,000</u>	
<u>Cash</u>		<u>100,000</u>
<u>To record the purchase of tax credit investment</u>		

Years 1-3

<u>Amortization expense</u>	<u>20,395</u>	
<u>Tax credit investment</u>		<u>20,395</u>
<u>Federal tax credits</u>	<u>20,000</u>	
<u>Income tax expense</u>		<u>20,000</u>



**New Market Tax Credit Project**

**Attachment A**  
Ref #2022-14x  
IP No. **xxx**

<u>Cash</u>	<u>58</u>	
<u>Investment Income</u>		<u>58</u>
<u>To record annual receipt of allocated tax credits, proportional amortization of investment, and receipt of non-tax cash returns.</u>		
<u>Income taxes payable</u>	<u>20,000</u>	
<u>Federal tax credits</u>		<u>20,000</u>
<u>To record annual utilization of allocated tax credits.</u>		
<u>Year 4</u>		
<u>Amortization expense</u>	<u>20,395</u>	
<u>Tax credit investment</u>		<u>20,395</u>
<u>Federal tax credits</u>	<u>20,000</u>	
<u>Income tax expense</u>		<u>20,000</u>
<u>Cash</u>	<u>58</u>	
<u>Investment Income</u>		<u>58</u>
<u>To record annual receipt of allocated tax credits, proportional amortization of investment, and receipt of non-tax cash returns.</u>		
<u>Income taxes payable</u>	<u>10,000</u>	
<u>Federal tax credits</u>		<u>10,000</u>
<u>Income tax expense</u>	<u>10,000</u>	
<u>Deferred tax expense</u>		<u>10,000</u>
<u>To record the portion of allocated tax credits utilized in the current year and defer the remainder. (Federal tax credit account should be mapped to the DTA reporting line as any balance remaining at year-end would be a DTA)</u>		
<u>Year 5</u>		
<u>Amortization expense</u>	<u>2,904</u>	
<u>Tax credit investment</u>		<u>2,904</u>
<u>Cash</u>	<u>58</u>	
<u>Investment Income</u>		<u>58</u>
<u>To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.</u>		
<u>Income taxes payable</u>	<u>10,000</u>	
<u>Federal tax credits</u>		<u>10,000</u>
<u>Deferred tax expense</u>	<u>10,000</u>	
<u>Income tax expense</u>		<u>10,000</u>
<u>To record utilization of deferred tax credit.</u>		
<u>Years 6-9</u>		
<u>Amortization expense</u>	<u>2,904</u>	
<u>Tax credit investment</u>		<u>2,904</u>
<u>Cash</u>	<u>58</u>	
<u>Investment Income</u>		<u>58</u>
<u>To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.</u>		

Year 10

<u>Amortization expense</u>	<u>2,900</u>	
<u>Tax credit investment</u>		<u>2,900</u>
<u>Cash</u>	<u>58</u>	
<u>Investment Income</u>		<u>58</u>
<u>To record annual proportional amortization of tax credit investment and receipt of non-tax cash returns.</u>		
<u>Cash</u>	<u>1,000</u>	
<u>Tax credit investment</u>		<u>1,000</u>
<u>To record sale of interest in tax credit investment at stated residual value.</u>		

**~~EXHIBIT A—LOW INCOME HOUSING TAX CREDIT PROPERTY INVESTMENTS~~**

~~A Limited Partnership Investment in an Affordable Housing Project Accounted for Using the Amortized Cost Method (modified to include tax benefits and record amortization as a component of net investment income):~~

~~This exhibit is based on ASU 2014-01, paragraph 323-740-55-7 of the Accounting Standards Codification. The amount and timing of amortization in the proportional amortization method is consistent with the statutory modifications; therefore, the table incorporated in this exhibit is based on the proportional amortization table. The statutory income statement requires a gross presentation on the income statement, with proportional amortization of the initial cost of the investment in investment income and the tax credits and benefits included in income tax expense.~~

~~Terms:~~

~~Date of Investment: January 1, 20X1~~

~~Purchase Price of Investment: \$100,000~~

~~Assumptions:~~

- ~~1. All cash flows (except initial investment) occur at the end of each year.~~
- ~~2. Depreciation expense is computed, for book and tax purposes, using the straight-line method with a 27.5 year life (the same method is used for simplicity).~~
- ~~3. The investor made a \$100,000 investment for a 5% limited partnership interest in the project at the beginning of the first year of eligibility for the tax credit.~~
- ~~4. The partnership finances the project cost of \$4,000,000 with 50% equity and 50% debt.~~
- ~~5. The annual tax credit allocation (equal to 4% of the project's original cost) will be received for a period of 10 years.~~
- ~~6. The investor's tax rate is 40%.~~

New Market Tax Credit Project

7. ~~For simplicity, the project will operate with break-even pretax cash flows including debt service during the first 15 years of operations.~~
8. ~~The project's taxable loss will be equal to depreciation expense. The cumulative book loss (and thus the cumulative depreciation expense) recognized by the investor is limited to the \$100,000 investment.~~
9. ~~It is assumed that all requirements are met to retain allocable tax credits so there will be no recapture of tax credits.~~
10. ~~The investor expects that the estimated residual value of the investment will be zero.~~

Proportional Amortization Method with Statutory Modifications

Year	Net Investment (1)	Amortization of Investment (2)	Tax Credits (3)	Net Losses/Tax Depreciation (4)	Other Tax Benefits from Tax Depreciation (5)	Tax Credits and Other Tax Benefits (6)
	100,000					
1	90,909	9,091	8,000	7,273	2,909	10,909
2	81,818	9,091	8,000	7,273	2,909	10,909
3	72,727	9,091	8,000	7,273	2,909	10,909
4	63,636	9,091	8,000	7,273	2,909	10,909
5	54,545	9,091	8,000	7,273	2,909	10,909
6	45,454	9,091	8,000	7,273	2,909	10,909
7	36,363	9,091	8,000	7,273	2,909	10,909
8	27,272	9,091	8,000	7,273	2,909	10,909
9	18,181	9,091	8,000	7,273	2,909	10,909
10	9,090	9,091	8,000	7,273	2,909	10,909
11	6,666	2,424		7,273	2,909	2,909
12	4,242	2,424		7,273	2,909	2,909
13	1,818	2,424		7,273	2,909	2,909
14	0	1,818		5,451	2,183	2,183
15	0					0
Total		100,000	80,000	100,000	40,000	120,000

- (1) ~~End of year investment for a 5% limited liability interest in the project net of amortization in Column (2).~~
- (2) ~~Initial investment of \$100,000 x (total tax benefits received during the year in Column (6)/total anticipated tax benefits over the life of the investment of \$120,000).~~
- (3) ~~A 4% tax credit on \$200,000 tax basis of the underlying assets.~~
- (4) ~~Depreciation (on \$200,000 tax basis of the underlying assets) using the straight line method over 27.5 years up to the amount of the initial investment of \$100,000.~~
- (5) ~~Column (4) x 40% tax rate.~~
- (6) ~~Column (3) + Column (5).~~

EXHIBIT B – TRACKED REVISIONS TO SSAP NO. 94R

Statements of Statutory Accounting Principles No. 94 – Revised

~~Transferable and Non-Transferable State~~ State and Federal Tax Credits

STATUS

Type of Issue .....	Common Area
Issued .....	June 12, 2006; Substantively revised December 7, 2011; <a href="#">Conceptually revised March 16, 2024.</a>
Effective Date .....	December 31, 2006; Substantive revisions detailed in Issue Paper No. 145 effective December 31, 2011; <a href="#">Conceptual revisions detailed in Issue Paper No. <b>xxx</b> effective January 1, 2025.</a>
Affects.....	No other pronouncements
Affected by.....	No other pronouncements
Interpreted by .....	No other pronouncements
Relevant Appendix A Guidance .....	None

[STATUS.....](#) ERROR! BOOKMARK NOT DEFINED.

[SCOPE OF STATEMENT .....](#) ERROR! BOOKMARK NOT DEFINED.

[SUMMARY CONCLUSION .....](#) ERROR! BOOKMARK NOT DEFINED.

[Accounting .....](#) 50

[Admittance .....](#) 52

[Impairment .....](#) Error! Bookmark not defined.

[Disclosures .....](#) Error! Bookmark not defined.

[Effective Date and Transition .....](#) Error! Bookmark not defined.

[REFERENCES .....](#) ERROR! BOOKMARK NOT DEFINED.

[Relevant Issue Papers .....](#) Error! Bookmark not defined.

[EXHIBIT A – ACCOUNTING FOR TRANSFERABLE TAX CREDITS](#) ERROR! BOOKMARK NOT DEFINED.

[EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE TAX CREDITS](#) ERROR! BOOKMARK NOT DEFINED.

~~STATUS.....~~ 1

~~SCOPE OF STATEMENT .....~~ 1

~~SUMMARY CONCLUSION .....~~ 2

~~Transferable State Tax Credits .....~~ 2

~~Non-Transferable State Tax Credits .....~~ 2

~~Acquisition .....~~ 3

~~Balance Sheet Treatment .....~~ 3

~~Income Statement Treatment .....~~ 3

~~Impairment .....~~ 3

~~Disclosures .....~~ 3

~~Effective Date and Transition .....~~ 4

~~REFERENCES .....~~ 4

Relevant Issue Papers .....	4
<b>EXHIBIT A—ACCOUNTING FOR TRANSFERABLE STATE TAX CREDITS</b> .....	<b>5</b>
<b>EXHIBIT B—ACCOUNTING FOR NON-TRANSFERABLE STATE TAX CREDITS</b> .....	<b>6</b>

## SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for state and federal tax credits that are purchased<sup>m</sup> by the reporting entity. Tax credits allocated from investments NOT within the scope of SSAP 93R—Investments in Tax Credit Structures should refer to this statement for tax credit accounting guidance. Tax credits which have been awarded<sup>m</sup> to the reporting entity are not within the scope of this statement and should refer to SSAP No. 101—Income Taxes.~~transferable and non-transferable state tax credits that are consistent with the Statutory Accounting Principles Statement of Concepts and Statutory Hierarchy (Statement of Concepts).~~
2. Tax credits allocated from, and investments in, tax credit structures, as discussed in SSAP No. 93R which involve investments in projects or programs that generate general business federal tax credits or state tax credits.~~Investments in Low Income Housing Tax Credits as discussed in SSAP No. 93—Low-Income Housing Tax Credit Property Investments, which involve an investment by a reporting entity in a limited liability company or similar entity that earns tax credits as a consequence of its operating activities involving low-income housing developments and passes those tax credits to its investors, are not within the scope of this statement.~~
3. Investments in a CAPCO (Certified Capital Company), organized as a partnership or an LLC, which is a company, authorized by state statute that borrows from investors ~~(insurance companies)~~, in order to make venture capital investments in “qualified” businesses, are not within the scope of this statement. Although associated with tax credits, the ~~insurance company~~investors is paid principal and interest on its investment with the CAPCO. Depending upon the terms of the CAPCO offering, principal and interest payments to the ~~insurance company~~investors will come from the CAPCO and/or the state. The CAPCO will make cash payments directly to the ~~insurance company~~investors while the state will make payments in the form of premium or income tax credits. Investments in a CAPCO shall be accounted for in accordance with Interpretation (INT) 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO) and specific statutory accounting guidance addressing CAPCOs.

## SUMMARY CONCLUSION

4. Both state and federal governments have enacted laws that create programs by which tax credits are granted to entities under certain specified conditions. The terms of these tax credits vary based on the issuing jurisdiction and from program to program.~~The criteria in paragraphs 5 and 6 are for transferable state tax credits (i.e., credits which may be sold or assigned). The criteria in paragraphs 7 and 8 are for non-transferable state tax credits (i.e., those which cannot be sold or assigned to other parties).~~
5. For the purposes of this statement, “tax credits” must be issued by either a federal or state governmental entity and must be refundable<sup>m</sup> or can be applied against income tax or premium tax in accordance with permitted IRS or state tax provisions. Tax credits which may be sold or otherwise transferred to another entity are referred to as “transferable tax credits” whereas all other tax credits are referred to as “non-transferable.”

#### ~~4. Transferable State Tax Credits~~

~~5. Some states have enacted laws that create programs by which transferable state tax credits are granted to entities under certain specified conditions (e.g., an entity makes an investment in a particular industry). The terms of these state tax credits vary from state to state and, within a state, from program to program. However, many of these transferable state tax credit programs share the following four characteristics:~~

~~6. The tax credit is nonrefundable;~~

~~7. The holder of the transferable state tax credit may sell or otherwise transfer the transferable state tax credit to another entity, which can likewise resell or transfer the credit;~~

~~8. The transferable state tax credit will expire if not used by a predetermined date; and~~

~~9. The transferable state tax credit can be applied against either state income tax or state premium tax.~~

~~6. For purposes of this statement, such programs will be referred to as “transferable state tax credits.” The criteria in paragraphs 5.b., 5.c. and 5.d. must be present in order for the transferable state tax credit to receive the accounting treatment described in this statement. When a reporting entity purchases a transferable or certificated state tax credit from another entity, the transaction does not result in a continuing investment in a business entity (i.e. limited partnership). Direct payment elections are non-revocable and supersede the transferability of tax credits, as such, once the election has been made the tax credit would be considered a non-transferable tax credit.~~

#### Accounting

7. All tax credits within the scope of the statement must be recognized in the period they are allocated to or purchased by the reporting entity for tax purposes and must be recorded at face value upon receipt. Tax credits acquired at a premium or discount to their face value must record the gain/loss as follows:

a. Tax credits acquired at a discount must defer the gain as a miscellaneous liability upon receipt of the tax credit.

b. Tax credits acquired at a premium must realize the loss within the income statement upon receipt of the tax credit.

8. Deferred ~~G~~gains on ~~transferable and non-transferable state~~ tax credits are deferred until the value of the ~~state~~ tax credits utilized exceeds the initial acquisition cost of the ~~state~~ tax credits, or until the ~~state~~ tax credits are sold to other entities or the direct payment election is utilized and the payment(s) ~~received is greater than the book value~~ exceed the initial acquisition cost.

9. Tax credits shall be recognized in the period that they are purchased or allocated to the reporting entity for tax purposes:

*Drafting Note:* The proposed revisions in agenda item 2024-18 would revise paragraphs 9.a. through 10 and, if adopted, would also be effective 1/1/2025.

a. Federal tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to federal taxes in accordance with SSAP No. 101–~~Income Taxes~~. Federal tax credits that cannot be utilized in the year allocated or



purchased and are carried forward to a future tax year shall be reported as a deferred tax asset (DTA) in accordance with SSAP No. 101.

- b. State tax credits that can be utilized in the year allocated or purchased shall be reported in the income statement as an offset to state premium tax or state income tax, whichever is applicable, in the tax-reporting year in which the credit is utilized. State tax credits that cannot be utilized in the year allocated or purchased and are carried forward to a future tax year shall be reported gross of any related state tax liabilities and reported in the category of other-than-invested-assets (not to be reported net).

**10. Use of carried forward tax credits in a future period shall be reflected as an offset to the corresponding income or premium tax in the tax reporting year in which the tax credit is utilized.**  
**Non-Transferable State Tax Credits**

~~11. If the original or subsequent holder of the transferable tax credit is not able to transfer the tax credit, then the admissibility criteria in paragraph 8 for non-transferable tax credits apply. These non-transferable state tax credits share the following characteristics:~~

~~12. The tax credit is nonrefundable;~~

~~13. The successive holder of a state tax credit must redeem the credit by April 15 of the subsequent year to the entity's acquisition of the state tax credit and is not permitted to carry over, carry back, obtain a refund, sell or assign the credit;~~

~~14. The non-transferable state tax credit will expire if not used by the predetermined date; and~~

~~15. The non-transferable state tax credit can be applied against either state income tax or state premium tax.~~

~~16. The criteria in paragraphs 7.b., 7.c. and 7.d. must be present in order for the non-transferable state tax credit to receive the accounting treatment described in this statement.~~

~~17. Transferable and non-transferable state tax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in SSAP No. 4—Assets and Nonadmitted Assets and are admissible assets to the extent that they comply with the requirements of this statement. If the criteria in paragraphs 6 or 8 are not met, the tax credits are nonadmitted.~~

**18. Acquisition**

~~19. Transferable and non-transferable state tax credits are recorded at cost at the date of acquisition.~~

**20. Balance Sheet Treatment**

~~21. Transferable and non-transferable state tax credits expected to be realized are initially recorded at cost.~~

~~22. Transferable and non-transferable state tax credits shall be established gross of any related state tax liabilities and reported in the category of other than invested assets (not reported net).~~

~~23. As transferable and non-transferable state tax credits are redeemed, the carrying value of the tax credits is reduced dollar for dollar by the amount of state tax credits applied toward the reporting entity's applicable state tax liability.~~

**24. Income Statement Treatment**

~~25. Gains on transferable and non-transferable state tax credits are deferred until the value of the state tax credits utilized exceeds the cost of the state tax credits or until the state tax credits are sold to other entities and the payment received is greater than the book value.~~

~~26.10. Losses on transferable and non-transferable state tax credits are recognized when known.~~

11. Gains and losses on ~~transferable and non-transferable state~~ tax credits are reflected in other income when realized.

12. A tax credit asset is considered purchased or allocated once the tax credit is received and available for use. If the reporting entity determines a commitment to purchase tax credits has met the definition of a liability, then the asset would be reported in other-than-invested assets as tax credits receivable.

### Admittance

13. ~~Transferable and non-transferable t~~ Tax credits as defined within this SSAP held by reporting entities meet the definition of assets as specified in SSAP No. 4—*Assets and Nonadmitted Assets* and are admissible assets to the extent that they comply with the requirements of this statement. The admissibility of tax credits is subject to SSAP No. 101.

### **Impairment**

~~27.14.~~ An impairment shall be considered to have occurred if it is probable that the reporting entity will be unable to recover the book/carrying amount-value of the ~~transferable or non-transferable state~~ tax credits. ~~State t~~ Tax credits should be evaluated for impairment at each reporting date.

~~28.15.~~ When there is a decline in the realizability of a ~~transferable or non-transferable state~~ tax credit owned by the reporting entity that is other-~~than~~-temporary<sup>(INT 06-07)</sup>, the asset shall be written down to the expected realizable amount and the amount of the write down shall be accounted for as a realized loss. The expected realizable value is the new cost basis.

~~29.16.~~ The new cost basis shall not be changed for subsequent recoveries in realizability.

### **Disclosures**

~~30.17.~~ The following disclosures shall be made in the financial statements. For purposes of this disclosure, total unused ~~transferable and non-transferable state~~ tax credits represent the entire ~~transferable and non-transferable state~~ amount of tax credits available:

- a. Carrying value of ~~transferable and non-transferable state~~ tax credits, disaggregated by transferable/certificated and non-transferable, gross of any related ~~state~~ tax liabilities by state jurisdiction and in total.;
- b. Total unused ~~transferable and non-transferable state~~ tax credits by state jurisdiction, disaggregated by transferable/certificated and non-transferable.;
- c. Method of estimating utilization of remaining ~~transferable and non-transferable state~~ tax credits or other projected recovery of the current carrying value.
- d. Impairment amount recognized in the reporting period, if any.

- e. Identify ~~state~~-tax credits by transferable/certificated and non-transferable classifications; and identify the admitted and ~~N~~nonadmitted portions of each classification.

18. Any commitment or contingent commitment to purchase tax credits shall be disclosed.

## Effective Date and Transition

19. This statement is effective for reporting periods ending on or after December 31, 2006. Early adoption is permitted. A change resulting from the adoption of this statement shall be accounted for as a change in accounting principle in accordance with SSAP No. 3—Accounting Changes and Corrections of Errors. Substantive revisions to 1) revising the title; 2) incorporating the criteria for non-transferable state tax credits as described in paragraphs 7 and 8; 3) adding a disclosure; and 4) updating terminology throughout the document as appropriate, are effective for reporting periods ending on or after December 31, 2011.

20. In March 2024, new SAP concept revisions, as detailed in Issue Paper No. ~~XXX~~, were adopted. These revisions, effective January 1, 2025, with early adoption permitted, expanded the scope of SSAP No. 94R to include all purchased, and certain allocated, state and federal income or premium tax credits and provide new guidance on the accounting, recognition, and reporting for state and federal tax credits within the scope of this statement. As of the effective date, reporting entities shall prospectively modify the recognition, accounting, and reporting of tax credits within the scope of this statement to reflect the guidance in the conceptual revisions. For unutilized tax credits which were carried forward from prior to the effective date:

- a. Federal tax credits in other-than-invested assets are to be transferred and reported as a DTA in accordance with SSAP No. 101.
- b. Tax credits previously recorded at acquisition cost should be adjusted to reflect the face value of the acquired tax credits with the corresponding loss immediately recognized or the gain deferred.

## REFERENCES

### Relevant Issue Papers

- *Issue Paper No. 126—Accounting for Transferable State Tax Credits*
- *Issue Paper No. 145—Accounting for Transferable and Non-Transferable State Tax Credits*
- *Issue Paper No. ~~XXX~~—New Market Tax Credit Project*

**EXHIBIT A – ACCOUNTING FOR TRANSFERABLE ~~STATE~~ TAX CREDITS**

On 1/1/X1 SAM Insurance Company purchased transferable state tax credits for a cost of \$100,000. The transferable state tax credits are redeemable for \$160,000 and expire at the end of 12/31/X4. SAM initially expects to utilize the tax credits before expiration in their state of domicile in the amount of \$40,000 per year. In year X4, SAM sells the remaining \$30,000 in transferable state tax credits for \$20,000.

<u>1/1/x1</u>	<u>Transferable state tax credits</u>	<u>160,000</u>	
	<u>Deferred gains on acquired tax credits</u>		<u>60,000</u>
	<u>Cash</u>		<u>100,000</u>
	<u>To record the purchase of the tax credits</u>		
<u>6/30/x1</u>	<u>Premium tax expense</u>	<u>40,000</u>	
	<u>Premium taxes payable to domiciliary state</u>		<u>40,000</u>
	<u>To record premium tax expense and accrue the liability in Year 1.</u>		
<u>10/1/x1</u>	<u>Premium tax payable</u>	<u>40,000</u>	
	<u>Transferable state tax credits</u>		<u>40,000</u>
	<u>To record the use of tax credits in Year 1. The reporting entity expects to be able to utilize remaining tax credits before expiration.</u>		
<u>6/30/x2</u>	<u>Premium tax expense</u>	<u>60,000</u>	
	<u>Premium taxes payable to domiciliary state</u>		<u>60,000</u>
	<u>To record premium tax expense and accrue the liability in Year 2.</u>		
<u>9/30/x2</u>	<u>Premium tax payable</u>	<u>60,000</u>	
	<u>Transferable state tax credits</u>		<u>60,000</u>
	<u>To record the use of taxes credits in Year 2. The reporting entity expects to be able to utilize remaining tax credits before expiration.</u>		
<u>6/30/x3</u>	<u>Premium tax expense</u>	<u>30,000</u>	
	<u>Premium taxes payable to domiciliary state</u>		<u>30,000</u>
	<u>To record premium tax expense and accrue the liability in Year 3.</u>		
<u>9/30/x3</u>	<u>Premium tax payable</u>	<u>30,000</u>	
	<u>Transferable state tax credits</u>		<u>30,000</u>
	<u>Deferred gains on acquired tax credits</u>	<u>30,000</u>	
	<u>Other income</u>		<u>30,000</u>
	<u>To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. The Company intends to sell the remaining tax credits in year 4.</u>		
<u>6/30/x4</u>	<u>Cash</u>	<u>20,000</u>	
	<u>Other income</u>	<u>10,000</u>	
	<u>Transferable state tax credits</u>		<u>30,000</u>
	<u>Deferred gains on acquired tax credits</u>	<u>30,000</u>	
	<u>Other income</u>		<u>30,000</u>
	<u>To record the sale of the remaining tax credits.</u>		
<u>1/1/x1</u>	<del><u>Transferable state tax credits</u></del>	<del><u>100,000</u></del>	
	<del><u>Cash</u></del>		<del><u>100,000</u></del>
	<del><u>To record the purchase of the tax credits</u></del>		

New Market Tax Credit Project

Attachment A  
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6/30/x1	Premium tax expense	40,000	
	—— Premium taxes payable to domiciliary state		40,000
	<i>To record premium tax expense and accrue the liability in Year 1.</i>		
10/1/x1	Premium tax payable	40,000	
	—— Transferable state tax credits		40,000
	<i>To record the use of tax credits in Year 1. The reporting entity expects to be able to utilize remaining tax credits before expiration.</i>		
6/30/x2	Premium tax expense	60,000	
	—— Premium taxes payable to domiciliary state		60,000
	<i>To record premium tax expense and accrue the liability in Year 2.</i>		
9/30/x2	Premium tax payable	60,000	
	—— Transferable state tax credits		60,000
	<i>To record the use of taxes credits in Year 2. The reporting entity expects to be able to utilize remaining tax credits before expiration.</i>		
6/30/x3	Premium tax expense	30,000	
	—— Premium taxes payable to domiciliary state		30,000
	<i>To record premium tax expense and accrue the liability in Year 3.</i>		
9/30/x3	Premium tax payable	30,000	
	—— Other income		30,000
	<i>To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. The Company intends to sell the remaining tax credits in year 4.</i>		
6/30/x4	Cash	20,000	
	—— Other income		20,000
	<i>To record the sale of the remaining tax credits.</i>		

## EXHIBIT B – ACCOUNTING FOR NON-TRANSFERABLE ~~STATE~~ TAX CREDITS

On 7/1/X1 LJW Insurance Company purchased non-transferable ~~state-federal~~ tax credits for a cost of \$100,000. The ~~state-federal~~ tax credits are redeemable for \$110,000, ~~are not transferable~~ and expire on, April 15, 20x2. LJW expects to utilize the tax credits before expiration in their state of domicile in the amount of \$110,000. Tax credits are utilized pro-rata, approximately \$36,666 every quarter, from acquisition date to expiration date. The illustration below assumes that LJW Insurance Company's quarterly income tax liability equals the amount of credits that were purchased.

<u>7/1/x1</u>	<u>Federal tax credits</u>	<u>110,000</u>	
	<u>    Deferred gains on acquired tax credits</u>		<u>10,000</u>
	<u>    Cash</u>		<u>100,000</u>
	<u>To record the purchase of the tax credits</u>		
<u>9/30/x1</u>	<u>Income tax expense</u>	<u>36,666</u>	
	<u>    Income taxes payable</u>		<u>36,666</u>
	<u>To record quarterly income tax liability.</u>		
<u>10/1/x1</u>	<u>Income taxes payable</u>	<u>36,666</u>	
	<u>    Federal tax credits</u>		<u>36,666</u>
	<u>To record the use of tax credits in the quarter.</u>		
<u>12/31/x1</u>	<u>Income tax expense</u>	<u>36,666</u>	
	<u>    Income taxes payable</u>		<u>36,666</u>
	<u>To record quarterly income tax liability.</u>		
<u>1/1/x2</u>	<u>Income taxes payable</u>	<u>36,666</u>	
	<u>    Federal tax credits</u>		<u>36,666</u>
	<u>To record the use of tax credits in the quarter.</u>		
<u>3/31/x2</u>	<u>Income tax expense</u>	<u>36,668</u>	
	<u>    Income taxes payable</u>		<u>36,668</u>
	<u>To record quarterly income tax liability.</u>		
<u>4/1/x2</u>	<u>Income taxes payable</u>	<u>36,668</u>	
	<u>Deferred gains on acquired tax credits</u>	<u>10,000</u>	
	<u>    Other Income</u>		<u>10,000</u>
	<u>    Federal tax credits</u>		<u>36,668</u>
	<u>To record the use of tax credits in the quarter.</u>		
<u><del>7/1/x1</del></u>	<u><del>State tax credits</del></u>	<u><del>100,000</del></u>	
	<u><del>    Cash</del></u>		<u><del>100,000</del></u>
	<u><del>To record the purchase of the tax credits</del></u>		
<u><del>9/30/x1</del></u>	<u><del>Premium tax expense</del></u>	<u><del>200,000</del></u>	
	<u><del>    Premium taxes payable to domiciliary state</del></u>		<u><del>200,000</del></u>
	<u><del>To record premium tax expense and accrue the liability.</del></u>		
<u><del>3/15/x2</del></u>	<u><del>Premium tax payable</del></u>	<u><del>110,000</del></u>	
	<u><del>    Other Income</del></u>		<u><del>10,000</del></u>
	<u><del>    State tax credits</del></u>		<u><del>100,000</del></u>



New Market Tax Credit Project

~~To record the use of premium tax credits in excess of cost and recognize a gain on premium tax credits in other income. (The additional \$90,000 of premium taxes payable would still be due.)~~

## EXHIBIT C – CONSISTENCY REVISIONS TO SSAP NO. 34 AND SSAP NO. 48

### Revisions to *SSAP No. 34—Investment Income Due and Accrued*

#### SCOPE OF STATEMENT

1. This statement establishes statutory accounting principles for investment income due and accrued. This statement does not address the accounting for tax credits allocated or purchased, which are discussed in SSAP No. 93R—Investments in Tax Credit Structures and SSAP No. 94R—State and Federal Tax Credits.

### Revisions to *SSAP No. 48—Joint Ventures, Partnerships and Limited Liability Companies*

#### SCOPE OF STATEMENT

2. This statement establishes statutory accounting principles for investments in any joint ventures, partnerships, and limited liability companies, including investments in certified capital companies (CAPCO) per *INT 06-02: Accounting and Reporting for Investments in a Certified Capital Company (CAPCO)*, whether or not it is considered to be controlled by or affiliated with the reporting entity. Single real estate property investments that are wholly-owned by an LLC that is directly and wholly-owned by the reporting entity, and that meet the criteria established in *SSAP No. 40R—Real Estate Investments*, are excluded from this statement. This statement does not address the accounting for investments in joint ventures, partnerships, and and-limited liability companies that invest in tax credit programs ~~that and are in the scope of hold an equity interest in either a tax syndication structure or tax equity fund invest in Low Income Housing Tax Credit Properties as discussed in SSAP No. 93R—Low Income Housing Tax Credit Property Investments~~ Investments in Tax Credit Structures.

## EXHIBIT D – FLOWCHART OF ORDER OF OPERATIONS FOR REVISED SSAP NO. 93

