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IRS Technical Advice Memorandum 200203013 Issued January 18, 2002 Regarding Development “Soft Costs”

Last Friday the IRS issued the latest TAM on the ongoing issue of including soft costs in the eligible basis of Tax Credit properties.

In very short form, the issue at hand was development impact fees and soft costs for land development that are not depreciable. This issue has been debated within IRS for a while, and several industry groups are trying to get better clarification of the issue, and avoid retroactive application of the existing TAMs.

In this most recent case the IRS concluded again that the recent TAMs which excluded impact fees were correct and that impact fees could not be included in the eligible basis, they also concluded that this advice applies retroactively which will affect a lot of existing properties.

The IRS has suspended the application of this TAM for the time being while the larger issues are considered. As this issue moves further we will keep you posted.

A copy of the full TAM is available on the NAHMA website in the Members Section.