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Low-Income Housing and Historic Tax Credits: The Tax Extenders and Alternative Minimum Tax Relief Act of 2008

On October 3, 2008, the President signed into law the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (the "Act"). The Act was Division C of the bill that included the Emergency Economic Stabilization Act of 2008. This alert provides a brief summary of the provisions of the Act pertaining to the low-income housing tax credit (the "Housing Credit") and to the historic tax credit (the "Historic Credit"). Certain of the amendments extend existing provisions while others are designed to stimulate investment in Housing Credit and Historic Credit properties in certain disaster areas.

Gulf Opportunity Zone — Historic Credit

The Act extends from December 31, 2008, until December 31, 2009, the increased Historic Credit percentages for qualified rehabilitation expenditures with respect to qualified rehabilitated buildings or certified historic structures located in the Gulf Opportunity Zone. This amendment applies to expenditures paid or incurred after October 3, 2008.

Midwestern Disaster Areas — Housing Credit

For calendar years 2008, 2009 and 2010, the Act increases the amount of Housing

Credits available annually (the "volume cap") to each state in which a Midwestern disaster area is located. "Midwestern disaster area" means an area for which the President has declared a major disaster on or after May 20, 2008, and before August 1, 2008, and that the President has determined warrants assistance from the federal government because of damage from severe storms, tornados or flooding occurring in any of the states of Arkansas, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska and Wisconsin.

Midwestern Disaster Areas — Historic Credit

For the period from the "applicable disaster date" until December 31, 2011, the Act increases the Historic Credit available for qualified rehabilitation expenditures with respect to any building or structure that was damaged or destroyed as a result of severe storms, tornados or flooding that gave rise to any presidential declaration of disaster. Under the Act, the Historic Credit is 13 percent of such qualified rehabilitation expenditures for qualified rehabilitated buildings other than certified historic structures and 26 percent of such qualified rehabilitation expenditures for certified historic structures. It is not clear how the Internal Revenue Service will determine

whether a building was damaged or destroyed as a result of such events, or whether any minimum level of damage will be necessary for the increased Historic Credit to be available.

Hurricane Ike — Housing Credit

For calendar years 2008, 2009 and 2010 the Act increases the Housing

Credit volume cap for each state in which the Hurricane Ike disaster area is located. "Hurricane Ike disaster area" means an area in the states of Texas or Louisiana for which the President declared a major disaster on September 13, 2008, and that the President has determined warrants assistance from

the federal government because of damages attributable to Hurricane Ike.

A copy of the Act is available at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.R.1424.enr>. For further information, please contact Cameron N. Cosby (ccosby@hunton.com; (804) 788-8604).

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