NASLEF
THE NATIONAL ASSOCIATION OF STATE AND LOCAL EQUITY FUNDS

May 5, 2005

The President's Advisory Panel on Federal Tax Reform
1440 New York Avenue, N.W.
Suite 2100
Washington, D.C. 20220

Dear Advisory Panel Members:

On behalf of the National Association of State and Local Equity Funds, we appreciate this opportunity to share our views and concerns regarding comprehensive reform of the federal income tax laws.

The National Association of State and Local Equity Funds ("NASLEF") is an association of 19, mostly not-for-profit, state-based equity funds, operating in 41 states, which raise capital for investment in affordable housing using the Low-Income Housing Tax Credit. Collectively, our member's funds have created or rehabilitated approximately 74,000 units of affordable rental housing, raising more than $4 billion in equity capital from U.S. corporations. Our members work in partnerships with state and local governments to help develop and finance affordable housing using the Low-Income Housing Tax Credit ("LIHTC") program.

Our specific recommendation is that, notwithstanding the overall direction the President's Panel on Tax Reform takes, or the recommendations that are made, the Panel should propose preserving the LIHTC program, which plays such a critical role in providing critically needed affordable housing for this nation. The housing credit program today is widely regarded as the most successful housing production program in the nation's history, resulting in the construction and rehabilitation of more than 1.3 million housing units for lower income households.

We strongly believe this is consistent with the mandate the President has given you to make recommendations to simplify the Federal tax laws "to reduce the costs and administrative burdens of compliance with such laws; (b) share the burdens and benefits of the Federal tax structure in an appropriately progressive manner while recognizing the importance of homeownership and charity in American society; and (c) promote long-run economic growth and job creation, and better encourage work effort, saving, and investment, so as to strengthen the competitiveness of the United States in the global marketplace."

Reduce the costs and administrative burdens of compliance with the Federal tax laws.

As anyone knows who has recently filled out a federal income tax form, there are many needless complications in the Internal Revenue Code ("the Code") that impose burdens on a significant percentage of individual taxpayers. As average citizens, we think it is very important for your panel to make recommendations that "reduce the cost and administrative burdens" faced by ordinary taxpayers. You can do tremendous good for the nation if your proposals focus on doing the most simplification for the most people. We urge you to take this kind of practical approach to reform, without eliminating all tax credits regardless of their contribution to the complexity of the Code.

There is no question that the LIHTC rules, found in section 42 of the Internal Revenue Code, are complicated. It is said to be the longest section of the Code. But the critical point is that it is used by very few taxpayers – almost all of them large corporations – requires few Internal Revenue Service ("IRS") personnel to administer, yet has a very high record of compliance.

Today almost all equity capital raised by the LIHTC is from a very small number of the largest corporations in the nation, mostly financial companies. Only about one percent of all equity capital is raised from individuals. This is not a Tax Code complication that is imposed on corporations, but instead is one they willingly assume for a number of reasons; including the economic returns the credit provides, the Community Reinvestment Act credit that is earned, and the corporate community investment mission that is achieved.

The existence of the LIHTC in no way contributes to the compliance burdens of the average individual or corporate taxpayer. It requires so few IRS personnel to administer that it cannot fairly be said to burden the tax system. Simply stated, tax reform does not require the elimination of the LIHTC.

In fact, as you may know, the LIHTC is a product of the last great effort to simplify the tax laws. It was created as part of the Tax Reform Act of 1986. Compared to affordable housing incentives that existed prior to 1986, the LIHTC program is a well-targeted, highly efficient tax incentive, used by a very small number of large corporate taxpayers, that imposes minimal administrative burdens on the Internal Revenue Service, and has a record of very high taxpayer compliance.

Share the burdens and benefits of the Federal tax structure in an appropriately progressive manner while recognizing the importance of homeownership and charity in American society.

The LIHTC is well designed to ensure that the tax benefits that go to investors flow through to lower income renters. The tax credits only apply to those units of a housing property which are rented to tenants with qualifying income, and the rents on those units are limited under the law. Although the LIHTC program provides tax credits that enable corporate investors to earn a return, the real beneficiaries of the program are lower income families that are able to obtain safe, decent affordable rental housing.

We make this point for two reasons. First, preserving the LIHTC in a reformed federal income tax system helps “share the burdens and benefits of the Federal tax structure in an appropriately progressive manner.” Second, the LIHTC is the one provision in the Tax Code that specifically supports rental housing, the cost of which pales in comparison to the annual revenue cost of the mortgage interest deduction that the President understandably wants to preserve. It seems only fair to preserve this rental subsidy with annual revenue costs approximating 1/20 the cost of the homeownership deductions.

Promote long-run economic growth and job creation, and better encourage work effort, saving, and investment, so as to strengthen the competitiveness of the United States in the global marketplace.

We believe that a strong argument can be made relating affordable housing to the competitiveness of the United States in the global marketplace. Children need a decent and stable housing environment to be able to concentrate and apply themselves in school. And their parents and other workers have the same shelter needs to be productive workers in society. The number of American families with serious housing problems is large, and the LIHTC helps fulfils an overwhelming affordable housing need. According to the latest report "State of the Nation's Housing, 2004" prepared by the Joint Center for Housing Studies of Harvard University, "nearly a third of all households spend 30% or more of their incomes on housing, and 13 percent spend 50 percent or more. In addition to widespread affordability problems, crowding is on the increase, some 2.5 – 3.5 million people are homeless at some point in a given year, and nearly 2 million households still live in severely inadequate units. Not surprisingly, housing challenges are most severe among those at the bottom of the income distribution. Fully half of lowest-income households spend at least 50 percent of their income on housing.

In closing, we note with alarm some of the comments in your April 13, 2005 statement, "America Needs a Better Tax System", and hope that you will not so easily dismiss all the "special rates, deductions, and credits" in the Code, including the LIHTC which has done such a remarkable job directing investment into affordable housing.

We don't deny that the LIHTC "distorts" investment decisions, causing corporate capital to flow to investments in affordable rental housing which otherwise could not attract such capital. Because providing quality housing to lower income households at controlled rents does not produce positive cash flow returns, there must be some incentive provided through either direct government spending or tax incentives. In this instance the redirection of capital to affordable housing through a tax incentive creates net economic efficiencies because the LIHTC more effectively marshals private sector capital than would be accomplished through a direct spending program.

Thank you for your attention to our concerns.

National Association of State and Local Equity Funds