Appendix A

1. Internal Revenue Code, Section 42 – Low-Income Housing Credit

2. Federal Register Vol. 65, No. 10 – Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit

3. Internal Revenue Notice 88-80 – Income Determination

4. Internal Revenue Ruling 91-38 – Low-Income Housing Credit Questions and Answers

5. Internal Revenue Ruling 92-61 – Treatment of resident Manager's Unit

6. Federal Register Vol. 62 No. 187 – Available Unit Rule

7. Revenue Procedure 94-65 – Documentation of Income and Assets

Sec. 42. Low-income housing credit

STATUTE

(a) In general

For purposes of section 38, the amount of the low-income housing credit determined under this section for any taxable year in the credit period shall be an amount equal to -

(1) the applicable percentage of
(2) the qualified basis of each qualified low-income building.

(b) Applicable percentage: 70 percent present value credit for certain new buildings; 30 percent present value credit for certain other buildings

For purposes of this section -

(b)(1) Building placed in service during 1987

In the case of any qualified low-income building placed in service by the taxpayer during 1987, the term 'applicable percentage' means -

(A) 9 percent for new buildings which are not federally subsidized for the taxable year, or
(B) 4 percent for -
(i) new buildings which are federally subsidized for the taxable year, and
(ii) existing buildings.

(b)(2) Buildings placed in service after 1987

(b)(2)(A) In general

In the case of any qualified low-income building placed in service by the taxpayer after 1987, the term 'applicable percentage' means the appropriate percentage prescribed by the Secretary for the earlier of -

(i) the month in which such building is placed in service, or
(ii) at the election of the taxpayer -
(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the

taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or
(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable.

(b)(2)(B) Method of prescribing percentages

The percentages prescribed by the Secretary for any month shall be percentages which will yield over a 10-year period amounts of credit under subsection (a) which have a present value equal to -

(i) 70 percent of the qualified basis of a building described in paragraph (1)(A), and
(ii) 30 percent of the qualified basis of a building described in paragraph (1)(B).

(b)(2)(C) Method of discounting

The present value under subparagraph (B) shall be determined -

(i) as of the last day of the 1st year of the 10-year period referred to in subparagraph (B),
(ii) by using a discount rate equal to 72 percent of the average of the annual Federal mid-term rate and the annual Federal long-term rate applicable under section 1274(d)(1) to the month applicable under clause (i) or (ii) of subparagraph (A) and compounded annually, and
(iii) by assuming that the credit allowable under this section for any year is received on the last day of such year.

(b)(3) Cross references

(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).
(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).
(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(7).

(c) Qualified basis; qualified low-income building

For purposes of this section -

(c)(1) Qualified basis

(c)(1)(A) Determination

The qualified basis of any qualified low-income building for any taxable year is an amount equal to -

(i) the applicable fraction (determined as of the close of such taxable year) of
(ii) the eligible basis of such building (determined under subsection (d)(5)).

(c)(1)(B) Applicable fraction

For purposes of subparagraph (A), the term 'applicable fraction' means the smaller of the unit fraction or the floor space fraction.

(c)(1)(C) Unit fraction

For purposes of subparagraph (B), the term 'unit fraction' means the fraction -

(i) the numerator of which is the number of low-income units in the building, and
(ii) the denominator of which is the number of residential rental units (whether or not occupied) in such building.

(c)(1)(D) Floor space fraction

For purposes of subparagraph (B), the term 'floor space fraction' means the fraction -

(i) the numerator of which is the total floor space of the low-income units in such building, and
(ii) the denominator of which is the total floor space of the residential rental units (whether or not occupied) in such building.

(c)(1)(E) Qualified basis to include portion of building used to provide supportive services for homeless

In the case of a qualified low-income building described in subsection (i)(3)(B)(iii), the qualified basis of such building for any taxable year shall be increased by the lesser of -

(i) so much of the eligible basis of such building as is used throughout the year to provide supportive services designed to assist tenants in locating and retaining permanent housing, or
(ii) 20 percent of the qualified basis of such building (determined without regard to this subparagraph).

(c)(2) Qualified low-income building

The term 'qualified low-income building' means any building -

(A) which is part of a qualified low-income housing project at all times during the period -
(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and
(ii) ending on the last day of the compliance period with respect to such building, and
(B) to which the amendments made by section 201(a) of the Tax Reform Act of 1986 apply.

Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) (FOOTNOTE 1) of the United States Housing Act of 1937 (other than assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of the enactment of this sentence)).

(FOOTNOTE 1) See References in Text note below. (d) Eligible basis

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For purposes of this section -
(1) New buildings
  The eligible basis of a new building is its adjusted basis as
of the close of the 1st taxable year of the credit period.
(2) Existing buildings
  (A) In general
    The eligible basis of an existing building is -
      (i) in the case of a building which meets the requirements
    of subparagraph (B), its adjusted basis as of the close of
    the 1st taxable year of the credit period, and
      (ii) zero in any other case.
  (B) Requirements
    A building meets the requirements of this subparagraph if -
      (i) the building is acquired by purchase (as defined in
    section 179(d)(2)),
      (ii) there is a period of at least 10 years between the
    date of its acquisition by the taxpayer and the later of -
        (I) the date the building was last placed in service, or
        (II) the date of the most recent nonqualified substantial
      improvement of the building,
      (iii) the building was not previously placed in service by
    the taxpayer or by any person who was a related person with
    respect to the taxpayer as of the time previously placed in
    service, and
      (iv) except as provided in subsection (f)(5), a credit is
    allowable under subsection (a) by reason of subsection (e)
    with respect to the building.
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(c)(2)(C) Adjusted basis

For purposes of subparagraph (A), the adjusted basis of any building shall not include so much of the basis of such building as is determined by reference to the basis of other property held at any time by the person acquiring the building.

(c)(2)(D) Special rules for subparagraph (B)

(c)(2)(D)(i) Nonqualified substantial improvement

For purposes of subparagraph (B)(ii) -

(c)(2)(D)(i)(I) In general

The term 'nonqualified substantial improvement' means any substantial improvement if section 167(k) (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990) was elected with respect to such improvement or section 168 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) applied to such improvement.

(c)(2)(D)(i)(II) Date of substantial improvement

The date of a substantial improvement is the last day of the 24-month period referred to in subclause (III).

(c)(2)(D)(i)(III) Substantial improvement

The term 'substantial improvement' means the improvements added to capital account with respect to the building during any 24-month period, but only if the sum of the amounts added to such account during such period equals or exceeds 25 percent of the adjusted basis of the building (determined without regard to paragraphs (2) and (3) of section 1016(a)) as of the 1st day of such period.

(c)(2)(D)(ii) Special rules for certain transfers

For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service -

> (I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,
> (II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),
> (III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation,
> (IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure, or

(V) of a single-family residence by any individual who owned and used such residence for no other purpose than as his principal residence.

(c)(2)(D)(iii) Related person, etc.

(c)(2)(D)(iii)(I) Application of section 179

For purposes of subparagraph (B)(i), section 179(d) shall be applied by substituting '10 percent' for '50 percent' in section (FOOTNOTE 2) 267(b) and 707(b) and in section 179(b)(7).

(FOOTNOTE 2) So in original. Probably should be 'sections'.

(c)(2)(D)(iii)(II) Related person

For purposes of subparagraph (B)(iii), a person (hereinafter in this subclause referred to as the 'related person') is related to any person if the related person bears a relationship to such person specified in section 267(b) or 707(b)(1), or the related person and such person are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52). For purposes of the preceding sentence, in applying section 267(b) or 707(b)(1), '10 percent' shall be substituted for '50 percent'.

(c)(3) Eligible basis reduced where disproportionate standards for units

(c)(3)(A) In general

Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

(c)(3)(B) Exception where taxpayer elects to exclude excess costs

(c)(3)(B)(i) In general

Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if -

(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and
(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

(c)(3)(B)(ii) Excess

The excess described in this clause with respect to any unit is the excess of -

(I) the cost of such unit, over
(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

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The Secretary may by regulation provide for the determination
 of the excess under this clause on a basis other than square
 foot costs.
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(c)(4) Special rules relating to determination of adjusted basis

For purposes of this subsection -

(c)(4)(A) In general

Except as provided in subparagraph (B), the adjusted basis of any building shall be determined without regard to the adjusted basis of any property which is not residential rental property.

(c)(4)(B) Basis of property in common areas, etc., included

The adjusted basis of any building shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in common areas or provided as comparable amenities to all residential rental units in such building.

(c)(4)(C) No reduction for depreciation

The adjusted basis of any building shall be determined without regard to paragraphs (2) and (3) of section 1016(a).

(c)(5) Special rules for determining eligible basis

(c)(5)(A) Eligible basis reduced by Federal grants

If, during any taxable year of the compliance period, a grant is made with respect to any building or the operation thereof and any portion of such grant is funded with Federal funds (whether or not includible in gross income), the eligible basis of such building for such taxable year and all succeeding taxable years shall be reduced by the portion of such grant which is so funded.

(c)(5)(B) Eligible basis not to include expenditures where section 167(k) elected

The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)

(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

(c)(5)(C) Increase in credit for buildings in high cost areas

(c)(5)(C)(i) In general

In the case of any building located in a qualified census tract or difficult development area which is designated for purposes of this subparagraph -

> (I) in the case of a new building, the eligible basis of such building shall be 130 percent of such basis determined without regard to this subparagraph, and
> (II) in the case of an existing building, the rehabilitation expenditures taken into account under subsection (e) shall be 130 percent of such expenditures determined without regard to this subparagraph.

(c)(5)(C)(ii) Qualified census tract

(c)(5)(C)(ii)(I) In general

The term 'qualified census tract' means any census tract which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract, in which 50 percent or more of the households have an income which is less than 60 percent of the area median gross income for such year. If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts.

(c)(5)(C)(ii)(II) Limit on MSA's designated

The portion of a metropolitan statistical area which may be designated for purposes of this subparagraph shall not exceed an area having 20 percent of the population of such metropolitan statistical area.

(c)(5)(C)(ii)(III) Determination of areas

For purposes of this clause, each metropolitan statistical area shall be treated as a separate area and all nonmetropolitan areas in a State shall be treated as 1 area.

(c)(5)(C)(iii) Difficult development areas

(c)(5)(C)(iii)(I) In general

The term 'difficult development areas' means any area designated by the Secretary of Housing and Urban Development as an area which has high construction, land, and utility costs relative to area median gross income.

(c)(5)(C)(iii)(II) Limit on areas designated

The portions of metropolitan statistical areas which may be designated for purposes of this subparagraph shall not exceed an aggregate area having 20 percent of the population of such metropolitan statistical areas. A comparable rule shall apply to nonmetropolitan areas.

(c)(5)(C)(iv) Special rules and definitions

For purposes of this subparagraph -

> (I) population shall be determined on the basis of the most recent decennial census for which data are available,
> (II) area median gross income shall be determined in accordance with subsection (g)(4),
> (III) the term 'metropolitan statistical area' has the same meaning as when used in section 143(k)(2)(B), and
> (IV) the term 'nonmetropolitan area' means any county (or portion thereof) which is not within a metropolitan statistical area.

(c)(6) Credit allowable for certain federally-assisted buildings acquired during 10-year period described in paragraph

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(2)(B)(ii)
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(c)(6)(A) In general

On application by the taxpayer, the Secretary (after consultation with the appropriate Federal official) may waive paragraph (2)(B)(ii) with respect to any federally-assisted building if the Secretary determines that such waiver is necessary -

> (i) to avert an assignment of the mortgage secured by property in the project (of which such building is a part) to the Department of Housing and Urban Development or the Farmers Home Administration, or
> (ii) to avert a claim against a Federal mortgage insurance fund (or such Department or Administration) with respect to a mortgage which is so secured.

The preceding sentence shall not apply to any building described in paragraph (7)(B).

(c)(6)(B) Federally-assisted building

For purposes of subparagraph (A), the term 'federally-assisted building' means any building which is substantially assisted, financed, or operated under -

> (i) section 8 of the United States Housing Act of 1937,
> (ii) section 221(d)(3) or 236 of the National Housing Act, or
> (iii) section 515 of the Housing Act of 1949,

as such Acts are in effect on the date of the enactment of the Tax Reform Act of 1986.

(c)(6)(C) Low-income buildings where mortgage may be prepaid

A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to a federally-assisted building described in clause (ii) or (iii) of subparagraph (B) if -

> (i) the mortgage on such building is eligible for prepayment under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 or under section 502(c) of the Housing Act of 1949 at any time within 1 year after the date of the application for such a waiver,
> (ii) the appropriate Federal official certifies to the Secretary that it is reasonable to expect that, if the waiver is not granted, such building will cease complying with its low-income occupancy requirements, and
> (iii) the eligibility to prepay such mortgage without the approval of the appropriate Federal official is waived by all persons who are so eligible and such waiver is binding on all successors of such persons.

(c)(6)(D) Buildings acquired from insured depository institutions in default

A waiver may be granted under subparagraph (A) (without regard to any clause thereof) with respect to any building acquired from an insured depository institution in default (as defined in section 3 of the Federal Deposit Insurance Act) or from a receiver or conservator of such an institution.

(c)(6)(E) Appropriate Federal official

For purposes of subparagraph (A), the term 'appropriate Federal official' means -

> (i) the Secretary of Housing and Urban Development in the case of any building described in subparagraph (B) by reason of clause (i) or (ii) thereof, and
> (ii) the Secretary of Agriculture in the case of any building described in subparagraph (B) by reason of clause (iii) thereof.

(c)(7) Acquisition of building before end of prior compliance period

(c)(7)(A) In general

Under regulations prescribed by the Secretary, in the case of a building described in subparagraph (B) (or interest therein) which is acquired by the taxpayer -

> (i) paragraph (2)(B) shall not apply, but
> (ii) the credit allowable by reason of subsection (a) to the taxpayer for any period after such acquisition shall be equal to the amount of credit which would have

been allowable under subsection (a) for such period to the prior owner referred to in subparagraph (B) had such owner not disposed of the building.

(c)(7)(B) Description of building

A building is described in this subparagraph if -

(i) a credit was allowed by reason of subsection (a) to any prior owner of such building, and
(ii) the taxpayer acquired such building before the end of the compliance period for such building with respect to such prior owner (determined without regard to any disposition by such prior owner).

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(e) Rehabilitation expenditures treated as separate new building
  (1) In general
    Rehabilitation expenditures paid or incurred by the taxpayer
  with respect to any building shall be treated for purposes of
  this section as a separate new building.
  (2) Rehabilitation expenditures
    For purposes of paragraph (1) -
    (A) In general
      The term 'rehabilitation expenditures' means amounts
    chargeable to capital account and incurred for property (or
    additions or improvements to property) of a character subject
    to the allowance for depreciation in connection with the
    rehabilitation of a building.
    (B) Cost of acquisition, etc, (FOOTNOTE 3) not included
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(FOOTNOTE 3) So in original. Probably should be 'etc.,'.

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      Such term does not include the cost of acquiring any building
    (or interest therein) or any amount not permitted to be taken
    into account under paragraph (3) or (4) of subsection (d).
  (3) Minimum expenditures to qualify
    (A) In general
      Paragraph (1) shall apply to rehabilitation expenditures with
    respect to any building only if -
        (i) the expenditures are allocable to 1 or more low-income
      units or substantially benefit such units, and
        (ii) the amount of such expenditures during any 24-month
      period meets the requirements of whichever of the following
      subclauses requires the greater amount of such expenditures:
          (I) The requirement of this subclause is met if such
        amount is not less than 10 percent of the adjusted basis of
        the building (determined as of the 1st day of such period
        and without regard to paragraphs (2) and (3) of section
        1016(a)).
          (II) The requirement of this subclause is met if the
        qualified basis attributable to such amount, when divided
        by the number of low-income units in the building, is
        $3,000 or more.
    (B) Exception from 10 percent rehabilitation
      In the case of a building acquired by the taxpayer from a
    governmental unit, at the election of the taxpayer,
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subparagraph (A)(ii)(I) shall not apply and the credit under this section for such rehabilitation expenditures shall be determined using the percentage applicable under subsection (b)(2)(B)(ii).

(C) Date of determination

The determination under subparagraph (A) shall be made as of the close of the 1st taxable year in the credit period with respect to such expenditures.

(4) Special rules

For purposes of applying this section with respect to expenditures which are treated as a separate building by reason of this subsection -

(A) such expenditures shall be treated as placed in service at the close of the 24-month period referred to in paragraph (3)(A), and

(B) the applicable fraction under subsection (c)(1) shall be the applicable fraction for the building (without regard to paragraph (1)) with respect to which the expenditures were incurred.

Nothing in subsection (d)(2) shall prevent a credit from being allowed by reason of this subsection.

(5) No double counting

Rehabilitation expenditures may, at the election of the taxpayer, be taken into account under this subsection or subsection (d)(2)(A)(i) but not under both such subsections.

(6) Regulations to apply subsection with respect to group of units in building

The Secretary may prescribe regulations, consistent with the purposes of this subsection, treating a group of units with respect to which rehabilitation expenditures are incurred as a separate new building.

(f) Definition and special rules relating to credit period

(1) Credit period defined

For purposes of this section, the term 'credit period' means, with respect to any building, the period of 10 taxable years beginning with -

(A) the taxable year in which the building is placed in service, or

(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable.

(2) Special rule for 1st year of credit period

(A) In general

The credit allowable under subsection (a) with respect to any building for the 1st taxable year of the credit period shall be determined by substituting for the applicable fraction under subsection (c)(1) the fraction -

(i) the numerator of which is the sum of the applicable fractions determined under subsection (c)(1) as of the close of each full month of such year during which such building was in service, and

(ii) the denominator of which is 12.

(B) Disallowed 1st year credit allowed in 11th year

Any reduction by reason of subparagraph (A) in the credit allowable (without regard to subparagraph (A)) for the 1st

taxable year of the credit period shall be allowable under subsection (a) for the 1st taxable year following the credit period.

(3) Determination of applicable percentage with respect to increases in qualified basis after 1st year of credit period

(A) In general

In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if -

(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to 2/3 of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

(B) 1st year computation applies

A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase.

(4) Dispositions of property

If a building (or an interest therein) is disposed of during any year for which credit is allowable under subsection (a), such credit shall be allocated between the parties on the basis of the number of days during such year the building (or interest) was held by each. In any such case, proper adjustments shall be made in the application of subsection (j).

(5) Credit period for existing buildings not to begin before rehabilitation credit allowed

(A) In general

The credit period for an existing building shall not begin before the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building.

(B) Acquisition credit allowed for certain buildings not allowed a rehabilitation credit

(i) In general

In the case of a building described in clause (ii) -

(I) subsection (d)(2)(B)(iv) shall not apply, and

(II) the credit period for such building shall not begin before the taxable year which would be the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II).

(ii) Building described

A building is described in this clause if -

(I) a waiver is granted under subsection (d)(6)(C) with respect to the acquisition of the building, and

(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if subsection (e)(3)(A)(ii)(II) were applied by substituting '$2,000' for '$3,000'.

(g) Qualified low-income housing project

For purposes of this section -

(1) In general

The term 'qualified low-income housing project' means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 test

The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 test

The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

(2) Rent-restricted units

(A) In general

For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project.

(B) Gross rent

For purposes of subparagraph (A), gross rent -

(i) does not include any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

(ii) includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937,

(iii) does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services, and

(iv) does not include any rental payment to the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

For purposes of clause (iii), the term 'supportive service' means any service provided under a planned program of services designed to enable residents of a residential rental property

to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (i)(3)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing.

(C) Imputed income limitation applicable to unit

For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

(i) In the case of a unit which does not have a separate bedroom, 1 individual.

(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)(B)(ii).

(D) Treatment of units occupied by individuals whose incomes rise above limit

(i) In general

Except as provided in clause (ii), notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation and such unit continues to be rent-restricted.

(ii) Next available unit must be rented to low-income tenant if income rises above 140 percent of income limit

If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting '170 percent' for '140 percent' and by substituting 'any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income' for 'any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation'.

(E) Units where Federal rental assistance is reduced as tenant's income increases

If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if -

(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if -

(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

(3) Date for meeting requirements

(A) In general

Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 1st year of the credit period for such building.

(B) Buildings which rely on later buildings for qualification

(i) In general

In determining whether a building (hereinafter in this subparagraph referred to as the 'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

(ii) Treatment of elected buildings

In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

(iii) Date prior building is treated as placed in service

For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

(C) Special rule

A building -

(i) other than the 1st building placed in service as part of a project, and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service.

(D) Projects with more than 1 building must be identified

For purposes of this section, a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in

subsection (h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

(4) Certain rules made applicable

Paragraphs (2) (other than subparagraph (A) thereof), (3), (4), (5), (6), and (7) of section 142(d), and section 6652(j), shall apply for purposes of determining whether any project is a qualified low-income housing project and whether any unit is a low-income unit; except that, in applying such provisions for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection.

(5) Election to treat building after compliance period as not part of a project

For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified low-income housing project for any period beginning after the compliance period for such building.

(6) Special rule where de minimis equity contribution

Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if -

(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent- restricted.

(7) Scattered site projects

Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units.

(h) Limitation on aggregate credit allowable with respect to projects located in a State

(1) Credit may not exceed credit amount allocated to building

(A) In general

The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

(B) Time for making allocation

Except in the case of an allocation which meets the requirements of subparagraph (C), (D), (E), or (F), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

(C) Exception where binding commitment

An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing

credit dollar amount to such building beginning in a specified later taxable year.

(D) Exception where increase in qualified basis

(i) In general

An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

(ii) Limitation

The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of -

(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

(iii) Housing credit dollar amount reduced by full allocation

Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2).

(E) Exception where 10 percent of cost incurred

(i) In general

An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made.

(ii) Qualified building

For purposes of clause (i), the term 'qualified building' means any building which is part of a project if the taxpayer's basis in such project (as of the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer's reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i)). Such term does not include any existing building unless a credit is allowable under subsection (e) for rehabilitation expenditures paid or incurred by the taxpayer with respect to such building for a taxable year ending during the second calendar year referred to in clause (i) or the prior taxable year.

(F) Allocation of credit on a project basis

(i) In general

In the case of a project which includes (or will include) more than 1 building, an allocation meets the requirements of this subparagraph if -

(I) the allocation is made to the project for a calendar year during the project period,

(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is

placed in service.

(ii) Project period

For purposes of clause (i), the term 'project period' means the period -

(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

(II) ending with the calendar year the last building is placed in service as part of such project.

(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year

Any housing credit dollar amount allocated to any building for any calendar year -

(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

(3) Housing credit dollar amount for agencies

(A) In general

The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

(B) State ceiling initially allocated to State housing credit agencies

Except as provided in subparagraphs (D) and (E), the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than 1 housing credit agency of a State, all such agencies shall be treated as a single agency.

(C) State housing credit ceiling

The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of -

(i) $1.25 multiplied by the State population,

(ii) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

(iii) the amount of State housing credit ceiling returned in the calendar year, plus

(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (ii), the unused State housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (i) and (iii) over the aggregate housing credit dollar amount allocated for such year. For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

(D) Unused housing credit carryovers allocated among certain States

(i) In general

The unused housing credit carryover of a State for any

calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

(ii) Unused housing credit carryover

For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of the unused State housing credit ceiling for such year (as defined in subparagraph (C)(ii)) over the excess (if any) of -

(I) the aggregate housing credit dollar amount allocated for such year, over

(II) the sum of the amounts described in clauses (i) and (iii) of subparagraph (C).

(iii) Formula for allocation of unused housing credit carryovers among qualified States

The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

(iv) Qualified State

For purposes of this subparagraph, the term 'qualified State' means, with respect to a calendar year, any State -

(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

(E) Special rule for States with constitutional home rule cities

For purposes of this subsection -

(i) In general

The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as -

(I) the population of such city, bears to

(II) the population of the entire State.

(ii) Coordination with other allocations

In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

(iii) Constitutional home rule city

For purposes of this paragraph, the term 'constitutional home rule city' has the meaning given such term by section 146(d)(3)(C).

(F) State may provide for different allocation

Rules similar to the rules of section 146(e) (other than

paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

(G) Population

For purposes of this paragraph, population shall be determined in accordance with section 146(j).

(4) Credit for buildings financed by tax-exempt bonds subject to volume cap not taken into account

(A) In general

Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if -

(i) such obligation is taken into account under section 146, and

(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing.

(B) Special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap

For purposes of subparagraph (A), if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

(5) Portion of State ceiling set-aside for certain projects involving qualified nonprofit organizations

(A) In general

Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B).

(B) Projects involving qualified nonprofit organizations

For purposes of subparagraph (A), a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period.

(C) Qualified nonprofit organization

For purposes of this paragraph, the term 'qualified nonprofit organization' means any organization if -

(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a),

(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; (FOOTNOTE 4) and

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(FOOTNOTE 4) So in original. The semicolon probably should be a comma.

(iii) 1 of the exempt purposes of such organization includes the fostering of low-income housing.

(D) Treatment of certain subsidiaries

(i) In general

For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

(ii) Qualified corporation

For purposes of clause (i), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

(E) State may not override set-aside

Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

(6) Buildings eligible for credit only if minimum long-term commitment to low-income housing

(A) In general

No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

(B) Extended low-income housing commitment

For purposes of this paragraph, the term 'extended low-income housing commitment' means any agreement between the taxpayer and the housing credit agency -

(i) which requires that the applicable fraction (as defined in subsection (c)(1)) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)(ii),

(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement and prohibitions of clause (i),

(iii) which prohibits the disposition to any person of any portion of the building to which such agreement applies unless all of the building to which such agreement applies is disposed of to such person,

(iv) which is binding on all successors of the taxpayer, and

(v) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

(C) Allocation of credit may not exceed amount necessary to support commitment

(i) In general

The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

(ii) Buildings financed by tax-exempt bonds

If paragraph (4) applies to any building the amount of

credit allowed in any taxable year may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building. Such commitment may be amended to increase such fraction.

(D) Extended use period

For purposes of this paragraph, the term 'extended use period' means the period -

(i) beginning on the 1st day in the compliance period on which such building is part of a qualified low-income housing project, and

(ii) ending on the later of -

(I) the date specified by such agency in such agreement, or

(II) the date which is 15 years after the close of the compliance period.

(E) Exceptions if foreclosure or if no buyer willing to maintain low-income status

(i) In general

The extended use period for any building shall terminate -

(I) on the date the building is acquired by foreclosure (or instrument in lieu of foreclosure) unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period, or

(II) on the last day of the period specified in subparagraph (I) if the housing credit agency is unable to present during such period a qualified contract for the acquisition of the low-income portion of the building by any person who will continue to operate such portion as a qualified low-income building.

Subclause (II) shall not apply to the extent more stringent requirements are provided in the agreement or in State law.

(ii) Eviction, etc. of existing low-income tenants not permitted

The termination of an extended use period under clause (i) shall not be construed to permit before the close of the 3-year period following such termination -

(I) the eviction or the termination of tenancy (other than for good cause) of an existing tenant of any low-income unit, or

(II) any increase in the gross rent with respect to such unit not otherwise permitted under this section.

(F) Qualified contract

For purposes of subparagraph (E), the term 'qualified contract' means a bona fide contract to acquire (within a reasonable period after the contract is entered into) the nonlow-income portion of the building for fair market value and the low-income portion of the building for an amount not less than the applicable fraction (specified in the extended low-income housing commitment) of -

(i) the sum of -

(I) the outstanding indebtedness secured by, or with respect to, the building,

(II) the adjusted investor equity in the building, plus

(III) other capital contributions not reflected in the amounts described in subclause (I) or (II), reduced by

(ii) cash distributions from (or available for distribution

from) the project.

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including regulations to prevent the manipulation of the amount determined under the preceding sentence.

(G) Adjusted investor equity

(i) In general

For purposes of subparagraph (E), the term 'adjusted investor equity' means, with respect to any calendar year, the aggregate amount of cash taxpayers invested with respect to the project increased by the amount equal to -

(I) such amount, multiplied by

(II) the cost-of-living adjustment for such calendar year, determined under section 1(f)(3) by substituting the base calendar year for 'calendar year 1987'.

An amount shall be taken into account as an investment in the project only to the extent there was an obligation to invest such amount as of the beginning of the credit period and to the extent such amount is reflected in the adjusted basis of the project.

(ii) Cost-of-living increases in excess of 5 percent not taken into account

Under regulations prescribed by the Secretary, if the CPI for any calendar year (as defined in section 1(f)(4)) exceeds the CPI for the preceding calendar year by more than 5 percent, the CPI for the base calendar year shall be increased such that such excess shall never be taken into account under clause (i).

(iii) Base calendar year

For purposes of this subparagraph, the term 'base calendar year' means the calendar year with or within which the 1st taxable year of the credit period ends.

(H) Low-income portion

For purposes of this paragraph, the low-income portion of a building is the portion of such building equal to the applicable fraction specified in the extended low-income housing commitment for the building.

(I) Period for finding buyer

The period referred to in this subparagraph is the 1-year period beginning on the date (after the 14th year of the compliance period) the taxpayer submits a written request to the housing credit agency to find a person to acquire the taxpayer's interest in the low-income portion of the building.

(J) Effect of noncompliance

If, during a taxable year, there is a determination that an extended low-income housing agreement was not in effect as of the beginning of such year, such determination shall not apply to any period before such year and subparagraph (A) shall be applied without regard to such determination if the failure is corrected within 1 year from the date of the determination.

(K) Projects which consist of more than 1 building

The application of this paragraph to projects which consist of more than 1 building shall be made under regulations prescribed by the Secretary.

(7) Special rules

(A) Building must be located within jurisdiction of credit agency

A housing credit agency may allocate its aggregate housing credit dollar amount only to buildings located in the jurisdiction of the governmental unit of which such agency is a part.

(B) Agency allocations in excess of limit

If the aggregate housing credit dollar amounts allocated by a housing credit agency for any calendar year exceed the portion of the State housing credit ceiling allocated to such agency for such calendar year, the housing credit dollar amounts so allocated shall be reduced (to the extent of such excess) for buildings in the reverse of the order in which the allocations of such amounts were made.

(C) Credit reduced if allocated credit dollar amount is less than credit which would be allowable without regard to placed in service convention, etc.

(i) In general

The amount of the credit determined under this section with respect to any building shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

(ii) Determination of percentage

For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which -

(I) the housing credit dollar amount allocated to such building bears to

(II) the credit amount determined in accordance with clause (iii).

(iii) Determination of credit amount

The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if -

(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to 2/3 of'.

(D) Housing credit agency to specify applicable percentage and maximum qualified basis

In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection.

(c)(8) Other definitions

For purposes of this subsection -

(c)(8)(A) Housing credit agency

The term 'housing credit agency' means any agency authorized to carry out this subsection.

(c)(8)(B) Possessions treated as States

The term 'State' includes a possession of the United States.

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(i) Definitions and special rules
  For purposes of this section -
  (1) Compliance period
    The term 'compliance period' means, with respect to any
  building, the period of 15 taxable years beginning with the 1st
  taxable year of the credit period with respect thereto.
  (2) Determination of whether building is federally subsidized
    (A) In general
      Except as otherwise provided in this paragraph, for purposes
    of subsection (b)(1), a new building shall be treated as
    federally subsidized for any taxable year if, at any time
    during such taxable year or any prior taxable year, there is or
    was outstanding any obligation the interest on which is exempt
    from tax under section 103, or any below market Federal loan,
    the proceeds of which are or were used (directly or indirectly)
    with respect to such building or the operation thereof.
    (B) Election to reduce eligible basis by balance of loan or
        proceeds of obligations
      A loan or tax-exempt obligation shall not be taken into
    account under subparagraph (A) if the taxpayer elects to
    exclude from the eligible basis of the building for purposes of
    subsection (d) -
        (i) in the case of a loan, the principal amount of such
      loan, and
        (ii) in the case of a tax-exempt obligation, the proceeds
      of such obligation.
    (C) Special rule for subsidized construction financing
      Subparagraph (A) shall not apply to any tax-exempt obligation
    or below market Federal loan used to provide construction
    financing for any building if -
        (i) such obligation or loan (when issued or made)
      identified the building for which the proceeds of such
      obligation or loan would be used, and
        (ii) such obligation is redeemed, and such loan is repaid,
      before such building is placed in service.
    (D) Below market Federal loan
      For purposes of this paragraph, the term 'below market
    Federal loan' means any loan funded in whole or in part with
    Federal funds if the interest rate payable on such loan is less
    than the applicable Federal rate in effect under section
    1274(d)(1) (as of the date on which the loan was made).  Such
    term shall not include any loan which would be a below market
    Federal loan solely by reason of assistance provided under
    section 106, 107, or 108 of the Housing and Community
    Development Act of 1974 (as in effect on the date of the
    enactment of this sentence).
  (3) Low-income unit
    (A) In general
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The term 'low-income unit' means any unit in a building if -

(i) such unit is rent-restricted (as defined in subsection (g)(2)), and

(ii) the individuals occupying such unit meet the income limitation applicable under subsection (g)(1) to the project of which such building is a part.

(B) Exceptions

(i) In general

A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy and used other than on a transient basis.

(ii) Suitability for occupancy

For purposes of clause (i), the suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes.

(iii) Transitional housing for homeless

For purposes of clause (i), a unit shall be considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building -

(I) which is used exclusively to facilitate the transition of homeless individuals (within the meaning of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302), as in effect on the date of the enactment of this clause) to independent living within 24 months, and

(II) in which a governmental entity or qualified nonprofit organization (as defined in subsection (h)(5)) provides such individuals with temporary housing and supportive services designed to assist such individuals in locating and retaining permanent housing.

(iv) Single-room occupancy units

For purposes of clause (i), a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.

(C) Special rule for buildings having 4 or fewer units

In the case of any building which has 4 or fewer residential rental units, no unit in such building shall be treated as a low-income unit if the units in such building are owned by -

(i) any individual who occupies a residential unit in such building, or

(ii) any person who is related (as defined in subsection (d)(2)(D)(iii)) to such individual.

(D) Certain students not to disqualify unit

A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is -

(i) a student and receiving assistance under title IV of the Social Security Act, or

(ii) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws.

(E) Owner-occupied buildings having 4 or fewer units eligible for credit where development plan

(i) In general

Subparagraph (C) shall not apply to the acquisition or rehabilitation of a building pursuant to a development plan

of action sponsored by a State or local government or a qualified nonprofit organization (as defined in subsection (h)(5)(C)).

(ii) Limitation on credit

In the case of a building to which clause (i) applies, the applicable fraction shall not exceed 80 percent of the unit fraction.

(iii) Certain unrented units treated as owner-occupied

In the case of a building to which clause (i) applies, any unit which is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented.

(4) New building

The term 'new building' means a building the original use of which begins with the taxpayer.

(5) Existing building

The term 'existing building' means any building which is not a new building.

(6) Application to estates and trusts

In the case of an estate or trust, the amount of the credit determined under subsection (a) and any increase in tax under subsection (j) shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(7) Impact of tenant's right of 1st refusal to acquire property

(A) In general

No Federal income tax benefit shall fail to be allowable to the taxpayer with respect to any qualified low-income building merely by reason of a right of 1st refusal held by the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency to purchase the property after the close of the compliance period for a price which is not less than the minimum purchase price determined under subparagraph (B).

(B) Minimum purchase price

For purposes of subparagraph (A), the minimum purchase price under this subparagraph is an amount equal to the sum of -

(i) the principal amount of outstanding indebtedness secured by the building (other than indebtedness incurred within the 5-year period ending on the date of the sale to the tenants), and

(ii) all Federal, State, and local taxes attributable to such sale.

Except in the case of Federal income taxes, there shall not be taken into account under clause (ii) any additional tax attributable to the application of clause (ii).

(j) Recapture of credit

(1) In general

If -

(A) as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than

(B) the amount of such basis as of the close of the preceding taxable year,

then the taxpayer's tax under this chapter for the taxable year shall be increased by the credit recapture amount.

(2) Credit recapture amount

For purposes of paragraph (1), the credit recapture amount is an amount equal to the sum of -

(A) the aggregate decrease in the credits allowed to the taxpayer under section 38 for all prior taxable years which would have resulted if the accelerated portion of the credit allowable by reason of this section were not allowed for all prior taxable years with respect to the excess of the amount described in paragraph (1)(B) over the amount described in paragraph (1)(A), plus

(B) interest at the overpayment rate established under section 6621 on the amount determined under subparagraph (A) for each prior taxable year for the period beginning on the due date for filing the return for the prior taxable year involved.

No deduction shall be allowed under this chapter for interest described in subparagraph (B).

(3) Accelerated portion of credit

For purposes of paragraph (2), the accelerated portion of the credit for the prior taxable years with respect to any amount of basis is the excess of -

(A) the aggregate credit allowed by reason of this section (without regard to this subsection) for such years with respect to such basis, over

(B) the aggregate credit which would be allowable by reason of this section for such years with respect to such basis if the aggregate credit which would (but for this subsection) have been allowable for the entire compliance period were allowable ratably over 15 years.

(4) Special rules

(A) Tax benefit rule

The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

(B) Only basis for which credit allowed taken into account

Qualified basis shall be taken into account under paragraph (1)(B) only to the extent such basis was taken into account in determining the credit under subsection (a) for the preceding taxable year referred to in such paragraph.

(C) No recapture of additional credit allowable by reason of subsection (f)(3)

Paragraph (1) shall apply to a decrease in qualified basis only to the extent such decrease exceeds the amount of qualified basis with respect to which a credit was allowable for the taxable year referred to in paragraph (1)(B) by reason of subsection (f)(3).

(D) No credits against tax

Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, D, or G of this part.

(E) No recapture by reason of casualty loss

The increase in tax under this subsection shall not apply to a reduction in qualified basis by reason of a casualty loss to the extent such loss is restored by reconstruction or

replacement within a reasonable period established by the Secretary.

(F) No recapture where de minimis changes in floor space

The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if -

(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

(ii) the building is a qualified low-income building after such change.

(5) Certain partnerships treated as the taxpayer

(A) In general

For purposes of applying this subsection to a partnership to which this paragraph applies -

(i) such partnership shall be treated as the taxpayer to which the credit allowable under subsection (a) was allowed,

(ii) the amount of such credit allowed shall be treated as the amount which would have been allowed to the partnership were such credit allowable to such partnership,

(iii) paragraph (4)(A) shall not apply, and

(iv) the amount of the increase in tax under this subsection for any taxable year shall be allocated among the partners of such partnership in the same manner as such partnership's taxable income for such year is allocated among such partners.

(B) Partnerships to which paragraph applies

This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply.

(C) Special rules

(i) Husband and wife treated as 1 partner

For purposes of subparagraph (B)(i), a husband and wife (and their estates) shall be treated as 1 partner.

(ii) Election irrevocable

Any election under subparagraph (B), once made, shall be irrevocable.

(6) No recapture on disposition of building (or interest therein) where bond posted

In the case of a disposition of a building or an interest therein, the taxpayer shall be discharged from liability for any additional tax under this subsection by reason of such disposition if -

(A) the taxpayer furnishes to the Secretary a bond in an amount satifactory (FOOTNOTE 5) to the Secretary and for the period required by the Secretary, and

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(FOOTNOTE 5) So in original. Probably should be 'satisfactory'.

(B) it is reasonably expected that such building will continue to be operated as a qualified low-income building for the remaining compliance period with respect to such building.

(k) Application of at-risk rules

For purposes of this section -

(1) In general

Except as otherwise provided in this subsection, rules similar to the rules of section 49(a)(1) (other than subparagraphs (D)(ii)(II) and (D)(iv)(I) thereof), section 49(a)(2), and

section 49(b)(1) shall apply in determining the qualified basis of any building in the same manner as such sections apply in determining the credit base of property.

(2) Special rules for determining qualified person

For purposes of paragraph (1) -

(A) In general

If the requirements of subparagraphs (B), (C), and (D) are met with respect to any financing borrowed from a qualified nonprofit organization (as defined in subsection (h)(5)), the determination of whether such financing is qualified commercial financing with respect to any qualified low-income building shall be made without regard to whether such organization -

(i) is actively and regularly engaged in the business of lending money, or

(ii) is a person described in section 49(a)(1)(D)(iv)(II).

(B) Financing secured by property

The requirements of this subparagraph are met with respect to any financing if such financing is secured by the qualified low-income building, except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if -

(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

(ii) the proceeds from the financing (if any) are applied to acquire or improve such building.. (FOOTNOTE 6)

(FOOTNOTE 6) So in original.

(C) Portion of building attributable to financing

The requirements of this subparagraph are met with respect to any financing for any taxable year in the compliance period if, as of the close of such taxable year, not more than 60 percent of the eligible basis of the qualified low-income building is attributable to such financing (reduced by the principal and interest of any governmental financing which is part of a wrap-around mortgage involving such financing).

(D) Repayment of principal and interest

The requirements of this subparagraph are met with respect to any financing if such financing is fully repaid on or before the earliest of -

(i) the date on which such financing matures,

(ii) the 90th day after the close of the compliance period with respect to the qualified low-income building, or

(iii) the date of its refinancing or the sale of the building to which such financing relates.

In the case of a qualified nonprofit organization which is not described in section 49(a)(1)(D)(iv)(II) with respect to a building, clause (ii) of this subparagraph shall be applied as if the date described therein were the 90th day after the earlier of the date the building ceases to be a qualified low-income building or the date which is 15 years after the close of a compliance period with respect thereto.

(3) Present value of financing

If the rate of interest on any financing described in paragraph (2)(A) is less than the rate which is 1 percentage point below

the applicable Federal rate as of the time such financing is incurred, then the qualified basis (to which such financing relates) of the qualified low-income building shall be the present value of the amount of such financing, using as the discount rate such applicable Federal rate. For purposes of the preceding sentence, the rate of interest on any financing shall be determined by treating interest to the extent of government subsidies as not payable.

(4) Failure to fully repay

(A) In general

To the extent that the requirements of paragraph (2)(D) are not met, then the taxpayer's tax under this chapter for the taxable year in which such failure occurs shall be increased by an amount equal to the applicable portion of the credit under this section with respect to such building, increased by an amount of interest for the period -

(i) beginning with the due date for the filing of the return of tax imposed by chapter 1 for the 1st taxable year for which such credit was allowable, and

(ii) ending with the due date for the taxable year in which such failure occurs,

determined by using the underpayment rate and method under section 6621.

(B) Applicable portion

For purposes of subparagraph (A), the term 'applicable portion' means the aggregate decrease in the credits allowed to a taxpayer under section 38 for all prior taxable years which would have resulted if the eligible basis of the building were reduced by the amount of financing which does not meet requirements of paragraph (2)(D).

(C) Certain rules to apply

Rules similar to the rules of subparagraphs (A) and (D) of subsection (j)(4) shall apply for purposes of this subsection.

(l) Certifications and other reports to Secretary

(1) Certification with respect to 1st year of credit period

Following the close of the 1st taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes) -

(A) the taxable year, and calendar year, in which such building was placed in service,

(B) the adjusted basis and eligible basis of such building as of the close of the 1st year of the credit period,

(C) the maximum applicable percentage and qualified basis permitted to be taken into account by the appropriate housing credit agency under subsection (h),

(D) the election made under subsection (g) with respect to the qualified low-income housing project of which such building is a part, and

(E) such other information as the Secretary may require.

In the case of a failure to make the certification required by the preceding sentence on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, no credit shall be allowable by reason of subsection (a) with respect to such building for any taxable year ending before such certification is made.

(2) Annual reports to the Secretary

The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth -

(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

(B) the information described in paragraph (1)(C) for the taxable year, and

(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor.

(3) Annual reports from housing credit agencies

Each agency which allocates any housing credit amount to any building for any calendar year shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual report specifying -

(A) the amount of housing credit amount allocated to each building for such year,

(B) sufficient information to identify each such building and the taxpayer with respect thereto, and

(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the report required by the preceding sentence on the date prescribed therefor.

(m) Responsibilities of housing credit agencies

(1) Plans for allocation of credit among projects

(A) In general

Notwithstanding any other provision of this section, the housing credit dollar amount with respect to any building shall be zero unless -

(i) such amount was allocated pursuant to a qualified allocation plan of the housing credit agency which is approved by the governmental unit (in accordance with rules similar to the rules of section 147(f)(2) (other than subparagraph (B)(ii) thereof)) of which such agency is a part, and

(ii) such agency notifies the chief executive officer (or the equivalent) of the local jurisdiction within which the building is located of such project and provides such individual a reasonable opportunity to comment on the project.

(B) Qualified allocation plan

For purposes of this paragraph, the term 'qualified allocation plan' means any plan -

(i) which sets forth selection criteria to be used to determine housing priorities of the housing credit agency which are appropriate to local conditions,

(ii) which also gives preference in allocating housing credit dollar amounts among selected projects to -

(I) projects serving the lowest income tenants, and

(II) projects obligated to serve qualified tenants for the longest periods, and

(iii) which provides a procedure that the agency (or an agent or other private contractor of such agency) will follow in monitoring for noncompliance with the provisions of this section and in notifying the Internal Revenue Service of such noncompliance which such agency becomes aware of.

(C) Certain selection criteria must be used

The selection criteria set forth in a qualified allocation plan must include

(i) project location,

(ii) housing needs characteristics,

(iii) project characteristics,

(iv) sponsor characteristics,

(v) participation of local tax-exempt organizations,

(vi) tenant populations with special housing needs, and

(vii) public housing waiting lists.

(D) Application to bond financed projects

Subsection (h)(4) shall not apply to any project unless the project satisfies the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located.

(2) Credit allocated to building not to exceed amount necessary to assure project feasibility

(A) In general

The housing credit dollar amount allocated to a project shall not exceed the amount the housing credit agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period.

(B) Agency evaluation

In making the determination under subparagraph (A), the housing credit agency shall consider -

(i) the sources and uses of funds and the total financing planned for the project,

(ii) any proceeds or receipts expected to be generated by reason of tax benefits, and

(iii) the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries.

Clause (iii) shall not be applied so as to impede the development of projects in hard-to-develop areas. Such a determination shall not be construed to be a representation or warranty as to the feasibility or viability of the project.

(C) Determination made when credit amount applied for and when building placed in service

(i) In general

A determination under subparagraph (A) shall be made as of each of the following times:

(I) The application for the housing credit dollar amount.

(II) The allocation of the housing credit dollar amount.

(III) The date the building is placed in service.

(ii) Certification as to amount of other subsidies

Prior to each determination under clause (i), the taxpayer shall certify to the housing credit agency the full extent of all Federal, State, and local subsidies which apply (or which the taxpayer expects to apply) with respect to the building.

(D) Application to bond financed projects

Subsection (h)(4) shall not apply to any project unless the governmental unit which issued the bonds (or on behalf of which the bonds were issued) makes a determination under rules similar to the rules of subparagraphs (A) and (B).

(n) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section,

including regulations -
(1) dealing with -
(A) projects which include more than 1 building or only a portion of a building,
(B) buildings which are placed in service in portions,
(2) providing for the application of this section to short taxable years,
(3) preventing the avoidance of the rules of this section, and
(4) providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.

(o) Termination

(1) In general

Except as provided in paragraph (2), for any calendar year after 1991 -
(A) clause (i) of subsection (h)(3)(C) shall not apply, and
(B) subsection (h)(4) shall not apply to any building placed in service after 1991.

(2) Exception for bond-financed buildings in progress

For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1992 if -
(A) the bonds with respect to such building are issued before 1992,
(B) the taxpayer's basis in the project (of which the building is a part) as of December 31, 1991, is more than 10 percent of the taxpayer's reasonably expected basis in such project as of December 31, 1993, and
(C) such building is placed in service before January 1, 1994.

SOURCE

(Added Pub. L. 99-514, title II, Sec. 252(a), Oct. 22, 1986, 100 Stat. 2189, and amended Pub. L. 99-509, title VIII, Sec. 8072(a), Oct. 21, 1986, 100 Stat. 1964; Pub. L. 100-647, title I, Sec. 1002(l)(1)-(25), (32), 1007(g)(3)(B), title IV, Sec. 4003(a), (b)(1), (3), 4004(a), Nov. 10, 1988, 102 Stat. 3373-3381, 3435, 3643, 3644; Pub. L. 101-239, title VII, Sec. 7108(a)(1), (b)-(e)(2), (f)-(m), (n)(2)-(q), 7811(a), 7831(c), 7841(d)(13)-(15), Dec. 19, 1989, 103 Stat. 2306-2321, 2406, 2426, 2429; Pub. L. 101-508, title XI, Sec. 11407(a)(1), (b)(1)-(9), 11701(a)(1)-(3)(A), (4), (5)(A), (6)-(10), 11812(b)(3), 11813(b)(3), Nov. 5, 1990, 104 Stat. 1388-474, 1388-475, 1388-505 to 1388-507, 1388-535, 1388-551.)

REFTEXT

References In Text

Section 8 of the United States Housing Act of 1937, referred to in subsecs. (c)(2), (d)(6)(B)(i), and (g)(2)(B), is classified to section 1437f of Title 42, The Public Health and Welfare. Section 8(e)(2) of the Act was repealed by Pub. L. 101-625, title II, Sec. 289(b)(1), Nov. 28, 1990, 104 Stat. 4128, effective Oct. 1, 1991, but to remain in effect with respect to single room occupancy dwellings as authorized by subchapter IV (Sec. 11361 et seq.) of chapter 119 of Title 42. See section 12839(b) of Title 42.

The Stewart B. McKinney Homeless Assistance Act of 1988, referred to in subsec. (c)(2), probably means the Stewart B. McKinney Homeless Assistance Act, Pub. L. 100-77, July 22, 1987, 101 Stat. 482, as amended, which is classified principally to chapter 119 (Sec. 11301 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of Title 42 and Tables.

The date of the enactment of this sentence, referred to in subsec. (c)(2), is the date of the enactment of Pub. L. 101-508, which was approved Nov. 5, 1990.

Section 201(a) of the Tax Reform Act of 1986, referred to in subsec. (c)(2)(B), is section 201(a) of Pub. L. 99-514, which amended section 168 of this title generally.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (d)(2)(D)(i)(I), (6)(B), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

The date of the enactment of the Revenue Reconciliation Act of 1990, referred to in subsec. (d)(2)(D)(i)(I), (5)(B), is the date of the enactment of Pub. L. 101-508, which was approved Nov. 5, 1990.

Sections 221(d)(3) and 236 of the National Housing Act, referred to in subsec. (d)(6)(B)(ii), are classified to sections 1715l(d)(3) and 1715z-1, respectively, of Title 12, Banks and Banking.

Sections 515 and 502(c) of the Housing Act of 1949, referred to in subsecs. (d)(6)(B)(iii), (C)(i) and (g)(2)(B)(iv), are classified to sections 1485 and 1472(c), respectively, of Title 42, The Public Health and Welfare.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (d)(6)(C)(i), now the Low-Income Housing Preservation and Resident Homeownership Act of 1990, is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, as amended. Subtitle B of title II, which was formerly set out as a note under section 1715l of Title 12, Banks and Banking, and which amended section 1715z-6 of Title 12, was amended generally by Pub. L. 101-625 and is classified to chapter 42 (Sec. 4101 et seq.) of Title 12. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 12 and Tables.

Section 3 of the Federal Deposit Insurance Act, referred to in subsec. (d)(6)(D), is classified to section 1813 of Title 12.

The date of the enactment of this subparagraph, referred to in subsec. (g)(2)(E), is the date of enactment of Pub. L. 100-647, which was approved Nov. 10, 1988.

Sections 106, 107, and 108 of the Housing and Community Development Act of 1974 (as in effect on the date of the enactment of this sentence), referred to in subsec. (i)(2)(D), are classified to sections 5306, 5307, and 5308 of Title 42, The Public Health and Welfare, as in effect on the date of enactment of Pub. L. 101-239, which was approved Dec. 19, 1989.

The date of the enactment of this clause, referred to in subsec. (i)(3)(B)(iii)(I), is date of enactment of Pub. L. 101-239, which was approved Dec. 19, 1989.

The Social Security Act, referred to in subsec. (i)(3)(D)(i), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title IV of the Act is classified generally to subchapter IV (Sec. 601 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Job Training Partnership Act, referred to in subsec. (i)(3)(D)(ii), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, which is classified generally to chapter 19 (Sec. 1501 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 29 and Tables.

MISC2

Prior Provisions

A prior section 42, added Pub. L. 94-12, title II, Sec. 203(a), Mar. 29, 1975, 89 Stat. 29, and amended Pub. L. 94-164, Sec. 3(a)(1), Dec. 23, 1975, 89 Stat. 972; Pub. L. 94-455, title IV, Sec. 401(a)(2)(A), (B), title V, Sec. 503(b)(4), title XIX, Sec. 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1555, 1562, 1834; Pub. L. 95-30, title I, Sec. 101(c), May 23, 1977, 91 Stat. 132, which related to the general tax credit allowed to individuals in an amount equal to the greater of (1) 2% of taxable income not exceeding $9,000 or (2) $35 multiplied by each exemption the taxpayer was entitled to, expired Dec. 31, 1978 pursuant to the terms of: (1) Pub. L. 94-12, Sec. 209(a) as amended by Pub. L. 94-164, Sec. 2(e), set out as an Effective and Termination Dates of 1975 Amendment note under section 56 of this title; (2) Pub. L. 94-164, Sec. 3(b) as amended by Pub. L. 94-455, Sec. 401(a)(1) and Pub. L. 95-30, Sec. 103(a); and (3) Pub. L. 94-455, Sec. 401(e), as amended by Pub. L. 95-30, Sec. 103(c) and Pub. L. 95-600, title I, Sec. 103(b), Nov. 6, 1978, 92 Stat. 2771, set out as an Effective and Termination Dates of 1976 Amendment note under section 32 of this title.

Another prior section 42 was renumbered section 35 of this title.

Amendments

1990 - Subsec. (b)(1). Pub. L. 101-508, Sec. 11701(a)(1)(B), struck out at end 'A building shall not be treated as described in subparagraph (B) if, at any time during the credit period, moderate rehabilitation assistance is provided with respect to such building under section 8(e)(2) of the United States Housing Act of 1937.'

Subsec. (c)(2). Pub. L. 101-508, Sec. 11701(a)(1)(A), inserted at end 'Such term does not include any building with respect to which moderate rehabilitation assistance is provided, at any time during the compliance period, under section 8(e)(2) of the United States Housing Act of 1937.'

Pub. L. 101-508, Sec. 11407(b)(5)(A), inserted before period at end of last sentence '(other than assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of the enactment of this sentence))'.

Subsec. (d)(2)(D)(i)(I). Pub. L. 101-508, Sec. 11812(b)(3), inserted '(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)' after 'section 167(k).'

Subsec. (d)(2)(D)(ii)(V). Pub. L. 101-508, Sec. 11407(b)(8), added subcl. (V).

Subsec. (d)(5)(B). Pub. L. 101-508, Sec. 11812(b)(3), inserted '(as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990)' after 'section 167(k).'

Subsec. (d)(5)(C)(ii)(I). Pub. L. 101-508, Sec. 11407(b)(4), inserted at end 'If the Secretary of Housing and Urban Development determines that sufficient data for any period are not available to apply this clause on the basis of census tracts, such Secretary shall apply this clause for such period on the basis of enumeration districts.'

Pub. L. 101-508, Sec. 11701(a)(2)(B), inserted before period at end 'for such year'.

Pub. L. 101-508, Sec. 11701(a)(2)(A), which directed the insertion of 'which is designated by the Secretary of Housing and Urban Development and, for the most recent year for which census data are available on household income in such tract,' after 'census tract', was executed by making the insertion after 'any census tract' to reflect the probable intent of Congress.

Subsec. (g)(2)(B)(iv). Pub. L. 101-508, Sec. 11407(b)(3), added cl. (iv).

Subsec. (g)(2)(D)(i). Pub. L. 101-508, Sec. 11701(a)(3)(A), inserted before period at end 'and such unit continues to be rent-restricted'.

Subsec. (g)(2)(D)(ii). Pub. L. 101-508, Sec. 11701(a)(4), inserted at end 'In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting '170 percent' for '140 percent' and by substituting 'any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of area median gross income' for 'any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation'.'

Subsec. (g)(3)(A). Pub. L. 101-508, Sec. 11701(a)(5)(A), substituted 'the 1st year of the credit period for such building' for 'the 12-month period beginning on the date the building is placed in service'.

Subsec. (h)(3)(C). Pub. L. 101-508, Sec. 11701(a)(6)(A), substituted 'the sum of the amounts described in clauses (i) and (iii)' for 'the amount described in clause (i)' in second sentence.

Subsec. (h)(3)(D)(ii)(II). Pub. L. 101-508, Sec. 11701(a)(6)(B), substituted 'the sum of the amounts described in clauses (i) and (iii)' for 'the amount described in clause (i)'.

Subsec. (h)(5)(B). Pub. L. 101-508, Sec. 11407(b)(9)(A), inserted 'own an interest in the project (directly or through a partnership) and' after 'nonprofit organization is to'.

Subsec. (h)(5)(C)(i) to (iii). Pub. L. 101-508, Sec. 11407(b)(9)(B), added cl. (ii) and redesignated former cl. (ii) as (iii).

Subsec. (h)(5)(D)(i). Pub. L. 101-508, Sec. 11407(b)(9)(C), inserted 'ownership and' before 'material participation'.

Subsec. (h)(6)(B)(i). Pub. L. 101-508, Sec. 11701(a)(7)(A), inserted before comma at end 'and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)(ii)'.

Subsec. (h)(6)(B)(ii). Pub. L. 101-508, Sec. 11701(a)(7)(B), substituted 'requirement and prohibitions' for 'requirement'.

Subsec. (h)(6)(B)(iii) to (v). Pub. L. 101-508, Sec. 11701(a)(8)(A), added cl. (iii) and redesignated former cls. (iii) and (iv) as (iv) and (v), respectively.

Subsec. (h)(6)(E)(i)(I). Pub. L. 101-508, Sec. 11701(a)(9), inserted before comma 'unless the Secretary determines that such acquisition is part of an arrangement with the taxpayer a purpose of which is to terminate such period'.

Subsec. (h)(6)(E)(ii)(II). Pub. L. 101-508, Sec. 11701(a)(8)(C), inserted before period at end 'not otherwise permitted under this section'.

Subsec. (h)(6)(F). Pub. L. 101-508, Sec. 11701(a)(8)(D), inserted 'the nonlow-income portion of the building for fair market value and' before 'the low-income portion' in introductory provisions.

Subsec. (h)(6)(J) to (L). Pub. L. 101-508, Sec. 11701(a)(8)(B), redesignated subpars. (K) and (L) as (J) and (K), respectively, and struck out former subpar. (J) which related to sales of less than the low-income portions of a building.

Subsec. (i)(3)(D). Pub. L. 101-508, Sec. 11407(b)(6), substituted 'Certain students' for 'Students in government-supported job training programs' in heading and amended text generally. Prior to amendment, text read as follows: 'A unit shall not fail to be treated as a low-income unit merely because it is occupied by an individual who is enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws.'

Subsec. (i)(7). Pub. L. 101-508, Sec. 11701(a)(10), redesignated par. (8) as (7).

Subsec. (i)(7)(A). Pub. L. 101-508, Sec. 11407(b)(1), substituted 'the tenants (in cooperative form or otherwise) or resident management corporation of such building or by a qualified nonprofit organization (as defined in subsection (h)(5)(C)) or government agency' for 'the tenants of such building'.

Subsec. (i)(8). Pub. L. 101-508, Sec. 11701(a)(10), redesignated par. (8) as (7).

Subsec. (k)(1). Pub. L. 101-508, Sec. 11813(b)(3)(A), substituted '49(a)(1)' for '46(c)(8)', '49(a)(2)' for '46(c)(9)', and '49(b)(1)' for '47(d)(1)'.

Subsec. (k)(2)(A)(ii), (D). Pub. L. 101-508, Sec. 11813(b)(3)(B), substituted '49(a)(1)(D)(iv)(II)' for '46(c)(8)(D)(iv)(II)'.

Subsec. (m)(1)(B)(ii) to (iv). Pub. L. 101-508, Sec. 11407(b)(7)(B), redesignated cls. (iii) and (iv) as (ii) and (iii),

respectively, and struck out former cl. (ii) which read as follows: 'which gives the highest priority to those projects as to which the highest percentage of the housing credit dollar amount is to be used for project costs other than the cost of intermediaries unless granting such priority would impede the development of projects in hard-to-develop areas,'.

Pub. L. 101-508, Sec. 11407(b)(2), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: 'which provides a procedure that the agency will follow in notifying the Internal Revenue Service of noncompliance with the provisions of this section which such agency becomes aware of.'

Subsec. (m)(2)(B). Pub. L. 101-508, Sec. 11407(b)(7)(A), added cl. (iii) and inserted provision that cl. (iii) not be applied so as to impede the development of projects in hard-to-develop areas.

Subsec. (o)(1). Pub. L. 101-508, Sec. 11407(a)(1)(A), substituted '1991' for '1990' wherever appearing.

Subsec. (o)(2). Pub. L. 101-508, Sec. 11407(a)(1)(B), added par. (2) and struck out former par. (2) which read as follows: 'For purposes of paragraph (1)(B), a building shall be treated as placed in service before 1990 if -

'(A) the bonds with respect to such building are issued before 1990,

'(B) such building is constructed, reconstructed, or rehabilitated by the taxpayer,

'(C) more than 10 percent of the reasonably anticipated cost of such construction, reconstruction, or rehabilitation has been incurred as of January 1, 1990, and some of such cost is incurred on or after such date, and

'(D) such building is placed in service before January 1, 1992.'

1989 - Subsec. (b)(1). Pub. L. 101-239, Sec. 7108(h)(5), inserted at end 'A building shall not be treated as described in subparagraph (B) if, at any time during the credit period, moderate rehabilitation assistance is provided with respect to such building under section 8(e)(2) of the United States Housing Act of 1937.'

Subsec. (b)(3)(C). Pub. L. 101-239, Sec. 7108(c)(2), which directed amendment of subpar. (C) by substituting 'subsection (h)(7)' for 'subsection (h)(6))', was executed by substituting 'subsection (h)(7)' for 'subsection (h)(6)', as the probable intent of Congress.

Subsec. (c)(1)(E). Pub. L. 101-239, Sec. 7108(i)(2), added subpar. (E).

Subsec. (d)(1). Pub. L. 101-239, Sec. 7108(l)(1), inserted 'as of the close of the 1st taxable year of the credit period' before period at end.

Subsec. (d)(2)(A). Pub. L. 101-239, Sec. 7108(l)(2), substituted 'subparagraph (B), its adjusted basis as of the close of the 1st taxable year of the credit period, and' for 'subparagraph (B), the sum of -

'(I) the portion of its adjusted basis attributable to its acquisition cost, plus

'(II) amounts chargeable to capital account and incurred by the taxpayer (before the close of the 1st taxable year of the credit period for such building) for property (or additions or improvements to property) of a character subject to the allowance for depreciation, and'.

Subsec. (d)(2)(B)(iv). Pub. L. 101-239, Sec. 7108(d)(1), added

cl. (iv).

Subsec. (d)(2)(C). Pub. L. 101-239, Sec. 7108(l)(3)(A), substituted 'Adjusted basis' for 'Acquisition cost' in heading and 'adjusted basis' for 'cost' in text.

Subsec. (d)(5). Pub. L. 101-239, Sec. 7108(l)(3)(B), substituted 'Special rules for determining eligible basis' for 'Eligible basis determined when building placed in service' in heading.

Subsec. (d)(5)(A). Pub. L. 101-239, Sec. 7108(l)(3)(B), redesignated subpar. (B) as (A) and struck out former subpar. (A) which read as follows: 'Except as provided in subparagraphs (B) and (C), the eligible basis of any building for the entire compliance period for such building shall be its eligible basis on the date such building is placed in service (increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II)).'

Subsec. (d)(5)(B). Pub. L. 101-239, Sec. 7108(l)(3)(B), redesignated subpar. (C) as (B). Former subpar. (B) redesignated (A).

Subsec. (d)(5)(C). Pub. L. 101-239, Sec. 7108(l)(3)(B), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Pub. L. 101-239, Sec. 7811(a)(1), inserted 'section' before '167(k)' in heading.

Subsec. (d)(5)(D). Pub. L. 101-239, Sec. 7108(l)(3)(B), redesignated subpar. (D) as (C).

Pub. L. 101-239, Sec. 7108(g), added subpar. (D).

Subsec. (d)(6)(A)(i). Pub. L. 101-239, Sec. 7841(d)(13), substituted 'Farmers Home Administration' for 'Farmers' Home Administration'.

Subsec. (d)(6)(C) to (E). Pub. L. 101-239, Sec. 7108(f), added subpars. (C) and (D) and redesignated former subpar. (C) as (E).

Subsec. (d)(7)(A). Pub. L. 101-239, Sec. 7831(c)(6), inserted '(or interest therein)' after 'subparagraph (B)' in introductory provisions.

Subsec. (d)(7)(A)(ii). Pub. L. 101-239, Sec. 7841(d)(14), substituted 'under subsection (a)' for 'under sebsection (a)'.

Subsec. (e)(2)(A). Pub. L. 101-239, Sec. 7841(d)(15), substituted 'to capital account' for 'to captial account'.

Subsec. (e)(3). Pub. L. 101-239, Sec. 7108(d)(3), substituted 'Minimum expenditures to qualify' for 'Average of rehabilitation expenditures must be $2,000 or more' in heading, added subpars. (A) and (B), redesignated former subpar. (B) as (C), and struck out former subpar. (A) which read as follows: 'Paragraph (1) shall apply to rehabilitation expenditures with respect to any building only if the qualified basis attributable to such expenditures incurred during any 24-month period, when divided by the low-income units in the building, is $2,000 or more.'

Subsec. (e)(5). Pub. L. 101-239, Sec. 7108(l)(3)(C), substituted 'subsection (d)(2)(A)(i)' for 'subsection (d)(2)(A)(i)(II)'.

Subsec. (f)(4). Pub. L. 101-239, Sec. 7831(c)(4), added par. (4).

Subsec. (f)(5). Pub. L. 101-239, Sec. 7108(d)(2), added par. (5).

Subsec. (g)(2)(A). Pub. L. 101-239, Sec. 7108(e)(2), inserted at end 'For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income

housing project.'

Pub. L. 101-239, Sec. 7108(e)(1)(B), substituted 'the imputed income limitation applicable to such unit' for 'the income limitation under paragraph (1) applicable to individuals occupying such unit'.

Subsec. (g)(2)(B). Pub. L. 101-239, Sec. 7108(h)(2), added cl. (iii) and concluding provisions which defined 'supportive service'.

Subsec. (g)(2)(C) to (E). Pub. L. 101-239, Sec. 7108(e)(1)(A), added subpars. (C) and (D) and redesignated former subpar. (C) as (E).

Subsec. (g)(3)(D). Pub. L. 101-239, Sec. 7108(m)(3), added subpar. (D).

Subsec. (g)(4). Pub. L. 101-239, Sec. 7108(n)(2), struck out '(other than section 142(d)(4)(B)(iii))' after 'in applying such provisions'.

Subsec. (g)(7). Pub. L. 101-239, Sec. 7108(h)(3), added par. (7).

Subsec. (h)(1)(B). Pub. L. 101-239, Sec. 7108(m)(2), substituted '(E), or (F)' for 'or (E)'.

Subsec. (h)(1)(F). Pub. L. 101-239, Sec. 7108(m)(1), added subpar. (F).

Subsec. (h)(3)(C) to (G). Pub. L. 101-239, Sec. 7108(b)(1), added subpars. (C) and (D), redesignated former subpars. (D) to (F) as (E) to (G), respectively, and struck out former subpar. (C) which read as follows: 'The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to $1.25 multiplied by the State population.'

Subsec. (h)(4)(B). Pub. L. 101-239, Sec. 7108(j), substituted '50 percent' for '70 percent' in heading and in text.

Subsec. (h)(5)(D)(ii). Pub. L. 101-239, Sec. 7811(a)(2), substituted 'clause (i)' for 'clause (ii)'.

Subsec. (h)(5)(E). Pub. L. 101-239, Sec. 7108(b)(2)(A), substituted 'subparagraph (F)' for 'subparagraph (E)'.

Subsec. (h)(6). Pub. L. 101-239, Sec. 7108(c)(1), added par. (6). Former par. (6) redesignated (7).

Subsec. (h)(6)(B) to (E). Pub. L. 101-239, Sec. 7108(b)(2)(B), redesignated subpars. (C) to (E) as (B) to (D), respectively, and struck out former subpar. (B) which provided that the housing credit dollar amount could not be carried over to any other calendar year.

Subsec. (h)(7), (8). Pub. L. 101-239, Sec. 7108(c)(1), redesignated pars. (6) and (7) as (7) and (8), respectively.

Subsec. (i)(2)(D). Pub. L. 101-239, Sec. 7108(k), inserted at end 'Such term shall not include any loan which would be a below market Federal loan solely by reason of assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 (as in effect on the date of the enactment of this sentence).'

Subsec. (i)(3)(B). Pub. L. 101-239, Sec. 7108(i)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: 'A unit shall not be treated as a low-income unit unless the unit is suitable for occupancy (as determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes) and used other than on a transient basis. For purposes of the preceding sentence, a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.'

Pub. L. 101-239, Sec. 7831(c)(1), inserted '(as determined under regulations prescribed by the Secretary taking into account local

health, safety, and building codes)' after 'suitable for occupancy'.

Pub. L. 101-239, Sec. 7108(h)(1), inserted at end 'For purposes of the preceding sentence, a single-room occupancy unit shall not be treated as used on a transient basis merely because it is rented on a month-by-month basis.'

Subsec. (i)(3)(D). Pub. L. 101-239, Sec. 7831(c)(2), added subpar. (D).

Subsec. (i)(3)(E). Pub. L. 101-239, Sec. 7108(h)(4), added subpar. (E).

Subsec. (i)(6). Pub. L. 101-239, Sec. 7831(c)(3), added par. (6).

Subsec. (i)(8). Pub. L. 101-239, Sec. 7108(q), added par. (8).

Subsec. (k)(2)(D). Pub. L. 101-239, Sec. 7108(o), added provision at end relating to the applicability of cl. (ii) to qualified nonprofit organizations not described in section 46(c)(8)(D)(iv)(II) with respect to a building.

Subsec. (l)(1). Pub. L. 101-239, Sec. 7108(p), in introductory provisions, substituted 'Following' for 'Not later than the 90th day following' and inserted 'at such time and' before 'in such form'.

Subsec. (m). Pub. L. 101-239, Sec. 7108(o), added subsec. (m). Former subsec. (m) redesignated (n).

Subsec. (m)(4). Pub. L. 101-239, Sec. 7831(c)(5), added par. (4).

Subsec. (n). Pub. L. 101-239, Sec. 7108(o), redesignated subsec. (m) as (n). Former subsec. (n) redesignated (o).

Pub. L. 101-239, Sec. 7108(a)(1), amended subsec. (n) generally. Prior to amendment, subsec. (n) read as follows: 'The State housing credit ceiling under subsection (h) shall be zero for any calendar year after 1989 and subsection (h)(4) shall not apply to any building placed in service after 1989.'

Subsec. (o). Pub. L. 101-239, Sec. 7108(o), redesignated subsec. (n) as (o).

1988 - Subsec. (b)(2)(A). Pub. L. 100-647, Sec. 1002(l)(1)(A), substituted 'for the earlier of - ' for 'for the month in which such building is placed in service' and added cls. (i) and (ii) and concluding provisions.

Subsec. (b)(2)(C)(ii). Pub. L. 100-647, Sec. 1002(l)(1)(B), substituted 'the month applicable under clause (i) or (ii) of subparagraph (A)' for 'the month in which the building was placed in service'.

Subsec. (b)(3). Pub. L. 100-647, Sec. 1002(l)(9)(B), amended par. (3) generally. Prior to amendment, par. (3) read as follows: 'For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).'

Subsec. (c)(2)(A). Pub. L. 100-647, Sec. 1002(l)(2)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: 'which at all times during the compliance period with respect to such building is part of a qualified low-income housing project, and'.

Subsec. (d)(2)(D)(ii). Pub. L. 100-647, Sec. 1002(l)(3), substituted 'Special rules for certain transfers' for 'Special rule for nontaxable exchanges' in heading and amended text generally. Prior to amendment, text read as follows: 'For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service in connection with the acquisition of the building in a transaction in which the basis of the building in the

hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom aquired.'

Subsec. (d)(3). Pub. L. 100-647, Sec. 1002(l)(4), amended par. (3) generally. Prior to amendment, par. (3) read as follows: 'The eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.'

Subsec. (d)(5)(A). Pub. L. 100-647, Sec. 1002(l)(6)(B), substituted 'subparagraphs (B) and (C)' for 'subparagraph (B)'.

Pub. L. 100-647, Sec. 1002(l)(5), inserted '(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))' before period at end.

Subsec. (d)(5)(C). Pub. L. 100-647, Sec. 1002(l)(6)(A), added subpar. (C).

Subsec. (d)(6)(A)(iii). Pub. L. 100-647, Sec. 1002(l)(7), struck out cl. (iii) which related to other circumstances of financial distress.

Subsec. (d)(6)(B)(ii). Pub. L. 100-647, Sec. 1002(l)(8), struck out 'of 1934' after 'Act'.

Subsec. (f)(1). Pub. L. 100-647, Sec. 1002(l)(2)(B), substituted 'beginning with - ' for 'beginning with' and subpars. (A) and (B) and concluding provisions for 'the taxable year in which the building is placed in service or, at the election of the taxpayer, the succeeding taxable year. Such an election, once made, shall be irrevocable.'

Subsec. (f)(3). Pub. L. 100-647, Sec. 1002(l)(9)(A), amended par. (3) generally. Prior to amendment, par. (3) 'Special rule where increase in qualified basis after 1st year of credit period' read as follows:

'(A) Credit increased. - If -

'(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of any building exceeds

'(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the credit allowable under subsection (a) for the taxable year (determined without regard to this paragraph) shall be increased by an amount equal to the product of such excess and the percentage equal to 2/3 of the applicable percentage for such building.

'(B) 1st year computation applies. - A rule similar to the rule of paragraph (2)(A) shall apply to the additional credit allowable by reason of this paragraph for the 1st year in which such additional credit is allowable.'

Subsec. (g)(2)(B)(i). Pub. L. 100-647, Sec. 1002(l)(10), struck out 'Federal' after 'comparable'.

Subsec. (g)(2)(C). Pub. L. 100-647, Sec. 1002(l)(11), added subpar. (C).

Subsec. (g)(3). Pub. L. 100-647, Sec. 1002(l)(12), amended par. (3) generally, substituting subpars. (A) to (C) for former subpars. (A) and (B).

Subsec. (g)(4). Pub. L. 100-647, Sec. 1002(l)(13), inserted '; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall

have the meaning given such term by paragraph (2)(B) of this subsection' before period at end.

Subsec. (g)(6). Pub. L. 100-647, Sec. 1002(l)(32), added par. (6).

Subsec. (h)(1). Pub. L. 100-647, Sec. 1002(l)(14)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: 'No credit shall be allowed by reason of this section for any taxable year with respect to any building in excess of the housing credit dollar amount allocated to such building under this subsection. An allocation shall be taken into account under the preceding sentence only if it occurs not later than the earlier of -

'(A) the 60th day after the close of the taxable year, or

'(B) the close of the calendar year in which such taxable year ends.'

Subsec. (h)(1)(B). Pub. L. 100-647, Sec. 4003(b)(1), substituted '(C), (D), or (E)' for '(C) or (D)'.

Subsec. (h)(1)(E). Pub. L. 100-647, Sec. 4003(a), added subpar. (E).

Subsec. (h)(4)(A). Pub. L. 100-647, Sec. 1002(l)(15), substituted 'if - ' for 'and which is taken into account under section 146' and added cls. (i) and (ii).

Subsec. (h)(5)(D), (E). Pub. L. 100-647, Sec. 1002(l)(16), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (h)(6)(B)(ii). Pub. L. 100-647, Sec. 1002(l)(14)(B), struck out cl. (ii) which read as follows:

'(ii) Allocation may not be earlier than year in which building placed in service. - A housing credit agency may allocate its housing credit dollar amount for any calendar year only to buildings placed in service before the close of such calendar year.'

Subsec. (h)(6)(D). Pub. L. 100-647, Sec. 1002(l)(17), amended subpar. (D) generally. Prior to amendment, subpar. (D) 'Credit allowable determined without regard to averaging convention, etc.' read as follows: 'For purposes of this subsection, the credit allowable under subsection (a) with respect to any building shall be determined -

'(i) without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

'(ii) by applying subsection (f)(3)(A) without regard to 'the percentage equal to 2/3 of'.'

Subsec. (h)(6)(E). Pub. L. 100-647, Sec. 1002(l)(18), added subpar. (E).

Subsec. (i)(2)(A). Pub. L. 100-647, Sec. 1002(l)(19)(A), inserted 'or any prior taxable year' after 'such taxable year' and substituted 'is or was outstanding' for 'is outstanding' and 'are or were used' for 'are used'.

Subsec. (i)(2)(B). Pub. L. 100-647, Sec. 1002(l)(19)(B), substituted 'balance of loan or proceeds of obligations' for 'outstanding balance of loan' in heading and amended text generally. Prior to amendment, text read as follows: 'A loan shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude an amount equal to the outstanding balance of such loan from the eligible basis of the building for purposes of subsection (d).'

Subsec. (i)(2)(C). Pub. L. 100-647, Sec. 1002(l)(19)(C), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (i)(2)(D). Pub. L. 100-647, Sec. 1002(l)(19)(C), (D), redesignated former subpar. (C) as (D) and substituted 'this paragraph' for 'subparagraph (A)'.

Subsec. (j)(4)(D). Pub. L. 100-647, Sec. 1007(g)(3)(B), substituted 'D, or G' for 'or D'.

Subsec. (j)(4)(F). Pub. L. 100-647, Sec. 1002(l)(20), added subpar. (F).

Subsec. (j)(5)(B). Pub. L. 100-647, Sec. 4004(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: 'This paragraph shall apply to any partnership -

'(i) more than 1/2 the capital interests, and more than 1/2 the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and

'(ii) which elects the application of this paragraph.'

Subsec. (j)(5)(B)(i). Pub. L. 100-647, Sec. 1002(l)(21), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: 'which has 35 or more partners each of whom is a natural person or an estate, and'.

Subsec. (j)(6). Pub. L. 100-647, Sec. 1002(l)(22), inserted '(or interest therein)' after 'disposition of building' in heading, and in text inserted 'or an interest therein' after 'of a building'.

Subsec. (k)(2)(B). Pub. L. 100-647, Sec. 1002(l)(23), inserted before period at end ', except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if - ' and cls. (i) and (ii).

Subsec. (l). Pub. L. 100-647, Sec. 1002(l)(24)(B), substituted 'Certifications and other reports to Secretary' for 'Certifications to Secretary' in heading.

Subsec. (l)(2), (3). Pub. L. 100-647, Sec. 1002(l)(24)(A), added par. (2) and redesignated former par. (2) as (3).

Subsec. (n). Pub. L. 100-647, Sec. 4003(b)(3), amended subsec. (n) generally, substituting a single par. for former pars. (1) and (2).

Subsec. (n)(1). Pub. L. 100-647, Sec. 1002(l)(25), inserted ', and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989' after 'year after 1989'.

1986 - Subsec. (k)(1). Pub. L. 99-509 substituted 'subparagraphs (D)(ii)(II) and (D)(iv)(I)' for 'subparagraph (D)(iv)(I)'.

Effective Date Of 1990 Amendment

Section 11407(a)(3) of Pub. L. 101-508 provided that: 'The amendments made by this subsection (amending this section and repealing provisions set out below) shall apply to calendar years after 1989.'

Section 11407(b)(10) of Pub. L. 101-508 provided that:

'(A) In general. - Except as otherwise provided in this paragraph, the amendments made by this subsection (amending this section) shall apply to -

'(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1990, or

'(ii) buildings placed in service after December 31, 1990, to

the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

'(B) Tenant rights, etc. - The amendments made by paragraphs (1), (6), (8), and (9) (amending this section) shall take effect on the date of the enactment of this Act (Nov. 5, 1990).

'(C) Monitoring. - The amendment made by paragraph (2) (amending this section) shall take effect on January 1, 1992, and shall apply to buildings placed in service before, on, or after such date.

'(D) Study. - The Inspector General of the Department of Housing and Urban Development and the Secretary of the Treasury shall jointly conduct a study of the effectiveness of the amendment made by paragraph (5) (amending this section) in carrying out the purposes of section 42 of the Internal Revenue Code of 1986. The report of such study shall be submitted not later than January 1, 1993, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.'

Section 11701(a)(3)(B) of Pub. L. 101-508 provided that: 'In the case of a building to which (but for this subparagraph) the amendment made by subparagraph (A) (amending this section) does not apply, such amendment shall apply to -

'(i) determinations of qualified basis for taxable years beginning after the date of the enactment of this Act (Nov. 5, 1990), and

'(ii) determinations of qualified basis for taxable years beginning on or before such date except that determinations for such taxable years shall be made without regard to any reduction in gross rent after August 3, 1990, for any period before August 4, 1990.'

Section 11701(n) of Pub. L. 101-508 provided that: 'Except as otherwise provided in this section, any amendment made by this section (amending this section and sections 148, 163, 172, 403, 1031, 1253, 2056, 4682, 4975, 4978B and 6038 of this title, and provisions set out as notes under this section and section 2040 of this title) shall take effect as if included in the provision of the Revenue Reconciliation Act of 1989 (Pub. L. 101-239, title VII) to which such amendment relates.'

Section 11812(c) of Pub. L. 101-508 provided that:

'(1) In general. - Except as provided in paragraph (2), the amendments made by this section (amending this section and sections 56, 167, 168, 312, 381, 404, 460, 642, 1016, 1250, and 7701 of this title) shall apply to property placed in service after the date of the enactment of this Act (Nov. 5, 1990).

'(2) Exception. - The amendments made by this section shall not apply to any property to which section 168 of the Internal Revenue Code of 1986 does not apply by reason of subsection (f)(5) thereof.

'(3) Exception for previously grandfather expenditures. - The amendments made by this section shall not apply to rehabilitation expenditures described in section 252(f)(5) of the Tax Reform Act of 1986 (Pub. L. 99-514) (as added by section 1002(l)(31) of the Technical and Miscellaneous Revenue Act of 1988 (see Transitional Rules note below)).'

Amendment by section 11813(b)(3) of Pub. L. 101-508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d)

of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101-508, set out as a note under section 29 of this title.

Effective Date Of 1989 Amendment

Section 7108(r) of Pub. L. 101-239, as amended by Pub. L. 101-508, title XI, Sec. 11701(a)(11), (12), Nov. 5, 1990, 104 Stat. 1388-507, provided that:

'(1) In general. - Except as otherwise provided in this subsection, the amendments made by this section (amending this section and section 142 of this title) shall apply to determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1989.

'(2) Buildings not subject to allocation limits. - Except as otherwise provided in this subsection, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, the amendments made by this section shall apply to buildings placed in service after December 31, 1989 but only with respect to bonds issued after such date.

'(3) One-year carryover of unused credit authority, etc. - The amendments made by subsection (b) (amending this section) shall apply to calendar years after 1989, but clauses (ii), (iii), and (iv) of section 42(h)(3)(C) of such Code (as added by this section) shall be applied without regard to allocations for 1989 or any preceding year.

'(4) Additional buildings eligible for waiver of 10-year rule. - The amendments made by subsection (f) (amending this section) shall take effect on the date of the enactment of this Act (Dec. 19, 1989).

'(5) Certifications with respect to 1st year of credit period. - The amendment made by subsection (p) (amending this section) shall apply to taxable years ending on or after December 31, 1989.

'(6) Certain rules which apply to bonds. - Paragraphs (1)(D) and (2)(D) of section 42(m) of such Code, as added by this section, shall apply to obligations issued after December 31, 1989.

'(7) Clarifications. - The amendments made by the following provisions of this section shall apply as if included in the amendments made by section 252 of the Tax Reform Act of 1986 (Pub. L. 99-514, enacting this section and amending sections 38 and 55 of this title):

'(A) Paragraph (1) of subsection (h) (relating to units rented on a monthly basis) (amending this section).

'(B) Subsection (l) (relating to eligible basis for new buildings to include expenditures before close of 1st year of credit period) (amending this section).

'(8) Guidance on difficult development areas and posting of bond to avoid recapture. - Not later than 180 days after the date of the enactment of this Act (Dec. 19, 1989) -

'(A) the Secretary of Housing and Urban Development shall publish initial guidance on the designation of difficult development areas under section 42(d)(5)(C) of such Code, as added by this section, and

'(B) the Secretary of the Treasury shall publish initial guidance under section 42(j)(6) of such Code (relating to no recapture on disposition of building (or interest therein) where bond posted).'

Amendment by section 7811(a) of Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

Amendment by section 7831(c) of Pub. L. 101-239 effective as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 7831(g) of Pub. L. 101-239, set out as a note under section 1 of this title.

Effective Date Of 1988 Amendment

Amendment by sections 1002(l)(1)-(25), (32) and 1007(g)(3)(B) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Section 4003(c) of Pub. L. 100-647 provided that: 'The amendments made by this section (amending this section and provisions set out as a note under section 469 of this title) shall apply to amounts allocated in calendar years after 1987.'

Section 4004(b) of Pub. L. 100-647 provided that:

'(1) In general. - The amendment made by subsection (a) (amending this section) shall take effect as if included in the amendments made by section 252 of the Reform Act (section 252 of Pub. L. 99-514, enacting this section and amending sections 38 and 55 of this title).

'(2) Period for election. - The period for electing not to have section 42(j)(5) of the 1986 Code apply to any partnership shall not expire before the date which is 6 months after the date of the enactment of this Act (Nov. 10, 1988).'

Effective Date Of 1986 Amendment

Section 8072(b) of Pub. L. 99-509 provided that: 'The amendment made by subsection (a) (amending this section) shall take effect as if included in the amendment made by section 252(a) of the Tax Reform Act of 1986 (enacting this section).'

Effective Date

Section 252(e) of Pub. L. 99-514 provided that:

'(1) In general. - The amendments made by this section (enacting this section and amending sections 38 and 55 of this title) shall apply to buildings placed in service after December 31, 1986, in taxable years ending after such date.

'(2) Special rule for rehabilitation expenditures. - Subsection (e) of section 42 of the Internal Revenue Code of 1986 (as added by this section) shall apply for purposes of paragraph (1).'

Savings Provision

For provisions that nothing in amendment by sections 11812(b)(3) and 11813(b)(3) of Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 29 of this title.

Election To Accelerate Credit Into 1990

Section 11407(c) of Pub. L. 101-508 provided that:

'(1) In general. - At the election of an individual, the credit determined under section 42 of the Internal Revenue Code of 1986 for the taxpayer's first taxable year ending on or after October 25, 1990, shall be 150 percent of the amount which would (but for this paragraph) be so allowable with respect to investments held by such individual on or before October 25, 1990.

'(2) Reduction in aggregate credit to reflect increased 1990 credit. - The aggregate credit allowable to any person under section 42 of such Code with respect to any investment for taxable years after the first taxable year referred to in paragraph (1) shall be reduced on a pro rata basis by the amount of the increased credit allowable by reason of paragraph (1) with respect to such first taxable year. The preceding sentence shall not be construed to affect whether any taxable year is part of the credit, compliance, or extended use periods.

(3) Election. - The election under paragraph (1) shall be made at the time and in the manner prescribed by the Secretary of the Treasury or his delegate, and, once made, shall be irrevocable. In the case of a partnership, such election shall be made by the partnership.'

Exception To Time Period For Meeting Project Requirements In Order To Qualify As Low-Income Housing

Section 11701(a)(5)(B) of Pub. L. 101-508 provided that: 'In the case of a building to which the amendment made by subparagraph (A) (amending this section) does not apply, the period specified in section 42(g)(3)(A) of the Internal Revenue Code of 1986 (as in effect before the amendment made by subparagraph (A)) shall not expire before the close of the taxable year following the taxable year in which the building is placed in service.'

State Housing Credit Ceiling For Calendar Year 1990

Section 7108(a)(2) of Pub. L. 101-239, which provided that in the case of calendar year 1990, section 42(h)(3)(C)(i) of the Internal Revenue Code of 1986 be applied by substituting '$.9375' for '$1.25', was repealed by Pub. L. 101-508, title XI, Sec. 11407(a)(2), (3), Nov. 5, 1990, 104 Stat. 1388-474, applicable to calendar years after 1989.

Transitional Rules

Section 252(f) of Pub. L. 99-514, as amended by Pub. L. 100-647, title I, Sec. 1002(l)(28)-(31), Nov. 10, 1988, 102 Stat. 3381, provided that:

'(1) Limitation to non-acrs buildings not to apply to certain buildings, etc. -

'(A) In general. - In the case of a building which is part of a project described in subparagraph (B) -

'(i) section 42(c)(2)(B) of the Internal Revenue Code of 1986 (as added by this section) shall not apply,

'(ii) such building shall be treated as not federally subsidized for purposes of section 42(b)(1)(A) of such Code,

'(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

'(iv) the amendments made by section 803 (enacting section 263A of this title, amending sections 48, 267, 312, 447, 464, and 471 of this title, and repealing sections 189, 278, and 280 of this title) shall not apply.

'(B) Project described. - A project is described in this subparagraph if -

'(i) an urban development action grant application with respect to such project was submitted on September 13, 1984,

'(ii) a zoning commission map amendment related to such project was granted on July 17, 1985, and

'(iii) the number assigned to such project by the Federal Housing Administration is 023-36602.

'(C) Additional units eligible for credit. - In the case of a building to which subparagraph (A) applies and which is part of a project which meets the requirements of subparagraph (D), for each low-income unit in such building which is occupied by individuals whose income is 30 percent or less of area median gross income, one additional unit (not otherwise a low-income unit) in such building shall be treated as a low-income unit for purposes of such section 42.

'(D) Project described. - A project is described in this subparagraph if -

'(i) rents charged for units in such project are restricted by State regulations,

'(ii) the annual cash flow of such project is restricted by State law,

'(iii) the project is located on land owned by or ground leased from a public housing authority,

'(iv) construction of such project begins on or before December 31, 1986, and units within such project are placed in service on or before June 1, 1990, and

'(v) for a 20-year period, 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

'(E) Maximum additional credit. - The maximum present value of additional credits allowable under section 42 of such Code by reason of subparagraph (C) shall not exceed 25 percent of the eligible basis of the building.

'(2) Additional allocation of housing credit ceiling. -

'(A) In general. - There is hereby allocated to each housing credit agency described in subparagraph (B) an additional housing credit dollar amount determined in accordance with the following table:

'For calendar year:	The additional allocation is:
1987	$3,900,000
1988	$7,600,000
1989	$1,300,000.

'(B) Housing credit agencies described. - The housing credit agencies described in this subparagraph are:

'(i) A corporate governmental agency constituted as a public benefit corporation and established in 1971 under the provisions of Article XII of the Private Housing Finance Law of the State.

'(ii) A city department established on December 20, 1979, pursuant to chapter XVIII of a municipal code of such city for the purpose of supervising and coordinating the formation and execution of projects and programs affecting housing within such city.

'(iii) The State housing finance agency referred to in subparagraph (C), but only with respect to projects described in subparagraph (C).

'(C) Project described. - A project is described in this subparagraph if such project is a qualified low-income housing project which -

'(i) receives financing from a State housing finance agency from the proceeds of bonds issued pursuant to chapter 708 of the Acts of 1966 of such State pursuant to loan commitments from such agency made between May 8, 1984, and July 8, 1986, and

'(ii) is subject to subsidy commitments issued pursuant to a program established under chapter 574 of the Acts of 1983 of such State having award dates from such agency between May 31, 1984, and June 11, 1985.

'(D) Special rules. -

'(i) Any building -

'(I) which is allocated any housing credit dollar amount by a housing credit agency described in clause (iii) of subparagraph (B), and

'(II) which is placed in service after June 30, 1986, and before January 1, 1987,

shall be treated for purposes of the amendments made by this section as placed in service on January 1, 1987.

'(ii) Section 42(c)(2)(B) of the Internal Revenue Code of 1986 shall not apply to any building which is allocated any housing credit dollar amount by any agency described in subparagraph (B).

'(E) All units treated as low income units in certain cases. - In the case of any building -

'(i) which is allocated any housing credit dollar amount by any agency described in subparagraph (B), and

'(ii) which after the application of subparagraph (D)(ii) is a qualified low-income building at all times during any taxable year,

such building shall be treated as described in section 42(b)(1)(B) of such Code and having an applicable fraction for such year of 1. The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building.

'(3) Certain projects placed in service before 1987. -

'(A) In general. - In the case of a building which is part of a project described in subparagraph (B) -

'(i) section 42(c)(2)(B) of such Code shall not apply,

'(ii) such building shall be treated as placed in service during the first calendar year after 1986 and before 1990 in which such building is a qualified low-income building (determined after the application of clause (i)), and

'(iii) for purposes of section 42(h) of such Code, such building shall be treated as having allocated to it a housing credit dollar amount equal to the dollar amount appearing in the clause of subparagraph (B) in which such building is described.

'(B) Project described. - A project is described in this subparagraph if the code number assigned to such project by the Farmers' Home Administration appears in the following table:

'The code number is:	The housing credit dollar amount is:
(i) 49284553664	$16,000
(ii) 4927742022446	$22,000
(iii) 49270742276087	$64,000
(iv) 490270742387293	$48,000
(v) 4927074218234	$32,000
(vi) 49270742274019	$36,000
(vii) 51460742345074	$53,000.

'(C) Determination of adjusted basis. - The adjusted basis of any building to which this paragraph applies for purposes of section 42 of such Code shall be its adjusted basis as of the

close of the taxable year ending before the first taxable year of the credit period for such building.

'(D) Certain rules to apply. - Rules similar to the rules of subparagraph (E) of paragraph (2) shall apply for purposes of this paragraph.

'(4) Definitions. - For purposes of this subsection, terms used in such subsection which are also used in section 42 of the Internal Revenue Code of 1986 (as added by this section) shall have the meanings given such terms by such section 42.

'(5) Transitional rule. - In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana -

'(A) the amendments made by this section (enacting this section and amending sections 38 and 55 of this title) shall not apply, and

'(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150.'

SECREF

Section Referred To In Other Sections

This section is referred to in sections 38, 39, 55, 469 of this title; title 42 sections 1437, 1485, 12745.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8859]

RIN 1545–AV44

Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations regarding the procedures for compliance monitoring by state and local housing agencies (Agencies) with the requirements of the low-income housing credit; the requirements for making carryover allocations; the rules for Agencies' correction of administrative errors or omissions; and the independent verification of information on sources and uses of funds submitted by taxpayers to Agencies. These final regulations affect owners of low-income housing projects who claim the credit and the Agencies who administer the credit.

DATES: *Effective Dates:* These regulations are effective January 1, 2001, except that the amendments made to §§ 1.42–5(c)(5) and (e)(3)(i), and 1.42–13 are effective January 14, 2000, and the amendment made to § 1.42–6(d)(4)(ii) is effective January 1, 2000.

Applicability Dates: For dates of applicability of the amendments to § 1.42–5, see § 1.42–5(h). For date of applicability of the amendment made to § 1.42–6, see § 1.42–12(c). For date of applicability of the amendments made to § 1.42–13, see § 1.42–13(d). For date of applicability of § 1.42–17, see § 1.42–17(b).

FOR FURTHER INFORMATION CONTACT: Paul Handleman, (202) 622–3040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1545–1357. Responses to these collections of information are mandatory.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

For § 1.42–5, the estimated annual burden per respondent varies from .5 hour to 3 hours for taxpayers and 250 to 5,000 hours for Agencies, with an estimated average of 1 hour for taxpayers and 1,500 hours for Agencies. For § 1.42–13, the estimated annual burden per respondent varies from .5 hour to 10 hours for taxpayers and Agencies, with an estimated average of 3.5 hours for taxpayers and 3 hours for Agencies. For § 1.42–17, the estimated annual burden per respondent varies from .5 hour to 2 hours for taxpayers and .5 hour to 5 hours for Agencies, with an estimated average of 1 hour for taxpayers and 2 hours for Agencies.

Comments concerning the accuracy of these burden estimates and suggestions for reducing these burdens should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books or records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

On January 8, 1999, the IRS published proposed regulations (REG–114664–97) in the **Federal Register** (64 FR 1143) inviting comments under section 42. A

public hearing was held May 27, 1999. Numerous comments have been received. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury Decision.

Public Comments

A. Compliance Monitoring

1. Inspection Requirement for New Buildings

The proposed regulations require that, by the end of the calendar year following the year the last building in a project is placed in service, the Agency conduct on-site inspections of the projects and review the low-income certification, the documentation supporting such certification, and the rent record for each tenant in the project. Most commentators view the requirement for reviewing all tenant records for all buildings in a project as unnecessary and burdensome. Most commentators suggest limiting inspections for new buildings to 20 percent of the project's low-income units.

Commentators also suggest extending the time limit for inspecting new buildings to the end of the calendar year following the first year of the credit period or at least until a reasonable time after the Agency issues Form 8609, ''Low-Income Housing Credit Allocation Certification.'' This added flexibility would allow the Agency to combine a physical inspection with a file review of the first year of the credit period.

In response to the comments, the final regulations reduce the inspection burden for new buildings by requiring the Agency to conduct on-site inspections of all new buildings in the project and, for at least 20 percent of the project's low-income units, to inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units. To allow the Agency sufficient time to review the tenant files for the first year of the credit period, the final regulations extend the time limit for inspecting new buildings to the end of the second calendar year following the year the last building in the project is placed in service.

2. Three-year Inspection Requirement

The proposed regulations require that, at least once every 3 years, each Agency conduct on-site inspections of all buildings in each low-income housing project and, for each tenant in at least 20 percent of the project's low-income units selected by the Agency, review the low-income certification, the documentation supporting such certification, and the rent record.

Most commentators agree with requiring physical inspections of the buildings at least once every 3 years. However, commentators recommend reviewing tenant income and rent records once every 5 years, which is one of the options under the current compliance monitoring regulations (see § 1.42–5(c)(2)(ii)(B) requiring an Agency to review tenant files for 20 percent of the low-income housing projects each year). Commentators also recommend reviewing tenant files either on-site or at other locations, including desk audits.

Although the physical inspection and file review requirements for new buildings are relaxed in the final regulations, the final regulations retain the 3-year inspection cycle for existing buildings. The final regulations do not separate the physical inspection and file review cycles (every 3 years for physical inspections and every 5 years for file reviews) as suggested by commentators because it is administratively complete to do both during the same year. The tenant income and rent restrictions in section 42(g) are equally important as the habitability standards for a low-income unit in section 42(i)(3)(B)(ii). The final regulations adopt the suggestion that the file review may be done wherever the tenant files are maintained.

3. Health, Safety, and Building Code Inspections

The proposed regulations require the Agency to determine whether the project is suitable for occupancy, taking into account local health, safety, and building codes.

Many commentators object to this requirement as too costly and unadministerable because building codes vary considerably within states. Commentators also asked for guidelines as to what constitutes an ''inspection.'' Some commentators propose defining an inspection as looking at selected units in the building and common areas for visible problems or defects without applying the local health, safety, and building codes standards. One commentator suggests inspections based on a complaint from the local jurisdiction or from a tenant. Some commentators suggest using a uniform physical standard such as the uniform physical condition standards for public housing established by the Department of Housing and Urban Development (HUD) in 24 CFR 5.703.

Section 42(i)(3)(B)(i) excludes from the definition of a ''low-income unit'' a unit that is not suitable for occupancy. Under section 42(i)(3)(B)(ii), suitability of a unit for occupancy shall be determined under regulations prescribed by the Secretary taking into account local health, safety, and building codes. Recognizing that these codes vary considerably within states, the final regulations require an Agency to determine whether a low-income housing project satisfies these codes, or satisfies the HUD uniform physical condition standards. The HUD standards are intended to ensure that housing is decent, safe, sanitary, and in good repair. Though it would be appropriate that an Agency use HUD's inspection protocol under 24 CFR 5.705, the final regulations do not mandate use of HUD's inspection protocol because to do so could increase costs to the Agencies as well as limit their latitude in applying standards consistent with their own operating procedures and practices. The final regulations except a building from the inspection requirement if the building is financed by the Rural Housing Service (RHS) under the section 515 program, the RHS inspects the building (under 7 CFR part 1930(c)), and the RHS and Agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the Agency of the inspection results. Irrespective of the physical inspection standard selected by the Agency, a low-income housing project under section 42 must continue to satisfy local health, safety, and building codes.

The proposed regulations limit an Agency's delegation of the physical inspection of a project to only a state or local government unit responsible for making building code inspections. Commentators suggest expanding the delegation of inspections to professional firms. The final regulations remove the delegation limitation and Agencies may delegate the physical inspection requirement to state or local governmental agencies, HUD, or private contractors.

4. Local Reports of Building Code Violations

The proposed regulations require the owner of a low-income housing project to certify that for the preceding 12-month period the state or local government unit responsible for making building code inspections did not issue a report of a violation for the project. If the governmental unit issued a report of a violation, the owner is required to attach a copy of the report of the violation to the annual certification submitted to the Agency.

A commentator noted that the number of violations attached to the annual owner certification would be considerable because even the highest

quality rental housing operations do not have an inspection without a report or notice of some violation. Two commentators suggest attaching reports only for violations that have not been corrected prior to filing the annual owner certification or requiring that owners only attach reports for ''major'' violations. The commentators suggest defining major violations as violations not corrected within 90 days of the notice of violation or violations where the cost to comply exceeds $2,500. A commentator suggests that Agencies be allowed to distinguish between minor technical violations and serious violations (i.e., lack of heat or hot water, hazardous conditions, and security) in reporting noncompliance.

Though a minor violation will not lead to the disallowance or recapture of section 42 credits, a series of minor violations may be the equivalent of a major violation resulting in disallowance or recapture of credits. Determining the difference between a major and minor violation is subjective. The final regulations do not exclude minor violations from the reporting and recordkeeping requirement. However, to reduce the inspection violation paperwork, the final regulations require that the owner must either attach a statement summarizing the violations or a copy of each violation report to the annual owner certification submitted to the Agency. The owner must state on the certification whether the violation has been corrected. In addition, the final regulations require that the owner retain the original violation report for the Agency's physical inspection. Retention of the original violation report is not required once the Agency reviews the violation and completes its inspection, unless the violation remains uncorrected.

5. Correction of Noncompliance or Failure to Certify

The final regulations adopt commentators' suggestion to limit to a 3-year period after the end of the correction period in § 1.42–5(e)(4) the requirement that Agencies file Form 8823, ''Low-Income Housing Credit Agencies Report of Noncompliance,'' with the IRS reporting the correction of the noncompliance or failure to certify.

6. Compliance Monitoring Effective Dates

Commentators suggest an effective date of at least one year after the final regulations are published in the **Federal Register**. Commentators also recommend on-site inspections apply only to new buildings allocated section 42 credits after the effective date of the final regulations.

Because the amendments to the compliance monitoring regulations will require amendments to qualified allocation plans, the final regulations relating to compliance generally contain a January 1, 2001, effective date. Thus, the requirements to attach local health, safety, or building code violations to the annual owner certification and to inspect buildings and review tenant files for existing projects are effective January 1, 2001. The inspection requirement and tenant file review for new buildings is effective for buildings placed in service on or after January 1, 2001.

7. Section 8 and Federal Civil Rights Laws

Two commentators state that insufficient controls are in place to ensure that low-income housing projects adhere to the requirement in section 42(h)(6)(B)(iv) of nondiscrimination against Section 8 voucher or certificate holders. The commentators suggest that the IRS could help compensate for lack of controls by working with HUD to ensure that Section 8 voucher or certificate holders are aware of, and have access to, low-income housing projects. The commentators also suggest that Agencies provide regional HUD offices a list of low-income housing projects in that state, with information that would be helpful for prospective tenants. One commentator suggests that the prohibition on discrimination based on Section 8 status be clarified to exclude policies that bar Section 8 tenants but have no substantial business justification. For example, low-income housing projects should not be permitted to exclude Section 8 voucher or certificate holders through a rule that requires every applicant to have income equal to at least three times the total rent.

The commentators also suggest that the Agencies should be required to develop a plan for educating applicants and owners of projects of the prohibition against discrimination on the basis of Section 8 voucher or certificate status. They recommend that the Agencies should be required to have a procedure for accepting and processing complaints about discrimination against Section 8 voucher or certificate holders. They also recommend that IRS and HUD should work together to study the circumstances under which Section 8 voucher or certificate holders are, or are not, accessing projects.

Section 42(h)(6)(A) provides that no credit shall be allowed by reason of section 42 with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year. Section 42(h)(6)(B)(iv) defines the term ''extended low-income housing commitment'' to include any agreement between the taxpayer and the housing credit agency that prohibits the refusal to lease to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as such a holder. To help monitor compliance with section 42(h)(6)(B)(iv), the final regulations amend the annual owner certification relating to the extended low-income housing commitment under § 1.42–5(c)(1)(xi) to require owners to certify that the owner has not refused to lease a unit in the project to a Section 8 applicant because the applicant holds a Section 8 voucher or certificate.

The IRS has informed HUD of the comments received about preventing discrimination based on Section 8 status. Agencies should provide HUD with publicly available information on section 42 low-income housing projects if HUD requests it.

A commentator also suggests that the compliance monitoring regulations be amended to acknowledge the authority of Title VIII of the 1968 Civil Rights Act, as well as HUD's Title VIII regulations; specify the civil rights obligations of the Agencies; and specify what developers and owners of projects must do to satisfy their civil rights obligations.

To monitor for compliance with the Fair Housing Act, the final regulations amend the annual owner certification relating to the general public use requirement in § 1.42–5(c)(1)(v) to require owners to certify that no finding of discrimination under the Fair Housing Act has occurred for the project (a finding of discrimination includes an adverse final decision by HUD, an adverse final decision by a substantially equivalent state or local fair housing agency, or an adverse judgment from a Federal court).

B. Sources and Uses of Funds

Section 42(m)(2)(A) requires Agencies to limit the housing credit dollar amount allocated to a project to only the amount necessary for the financial feasibility of a project and its viability as a qualified low-income project through the credit period. The proposed regulations require an Agency to evaluate the housing credit dollar amount at four times: (1) at application for the housing credit dollar amount, (2) the allocation of the housing credit dollar amount, (3) the date the building

is placed in service, and (4) after the building is placed in service, but before the Agency issues the Form 8609. Commentators recommend elimination of the evaluation at the placed-in-service date. In practice, Agencies currently evaluate the credit amount at the three other times. The final regulations adopt the recommendation by deleting the fourth time requirement and clarifying that the placed-in-service evaluation may occur not later than the date the Agency issues the Form 8609.

Commentators are concerned that the opinion by a certified public accountant, based upon the accountant's audit or examination, on the financial determinations and certifications required in the proposed regulations, could have significant cost implications, particularly for smaller developers. Commentators suggest limiting the requirement to projects with 25 or more units, or projects with total development costs of $5 million or more.

The third-party validation on financial information was recommended in the report by the General Accounting Office (GAO), ''Tax Credits: Opportunities to Improve Oversight of the Low-Income Housing Program,'' (GAO/GGD/RCED–97–55), dated March 28, 1997. The GAO report states on page 93 that an accounting firm with a tax credit speciality would charge in the $5,000 to $7,500 range per engagement for tax credit certifications (opinion on total costs, eligible basis, and tax credit amount) prepared on the basis of an audit done in accordance with AICPA audit standards even for projects costing upwards of $5 million to $10 million. As a percentage of development costs, the CPA tax credit certifications represent a minimal cost for validating financial information. However, in recognition that the cost may be burdensome for smaller developers, the final regulations limit the requirement for an audited schedule of costs for projects with more than 10 units.

Two commentators were concerned that the meaning of the term ''financial determinations and certifications'' is unclear. A CPA would not be able to evaluate what needs to be audited and whether there are relevant and reliable criteria against which the information can be evaluated. To conduct an audit or attestation engagement, CPAs require that the subject matter be defined and that such subject matter be capable of evaluation against reasonable criteria. Reasonable criteria are essential so that CPAs using the same criteria will be able to arrive at similar conclusions.

Another concern expressed by commentators involved uncertainty as to whether the CPA is being asked to report on financial information that is only historical or whether the CPA is also being asked to examine prospective financial information. CPAs can compile or examine and report on certain types of prospective financial information. However, such engagements generally are more costly than audits of historical information because of minimum presentation guidelines required by professional standards as well as increased risk associated with future-oriented information. The commentators believe that if an Agency were to require CPAs to be associated with prospective financial information, the related costs to the taxpayer may far exceed any perceived benefits to the Agency. Accordingly, the final regulations have been revised to specify that the CPA's opinion only relates to historical project costs.

C. Correction of Administrative Errors and Omissions

Commentators recommend filing the corrected allocation document with the current year's Form 8610, ''Annual Low-Income Housing Credit Agencies Report,'' instead of amending the Form 8610 for the year the allocation was made. Because the administrative errors covered by the automatic approval provision will not have an effect on the total amount of credit the Agency allocated to the building(s) or project, commentators view an amended Form 8610 as unnecessary. Agency recordkeeping would be simplified if all corrected allocation documents could be submitted with the current year's Form 8610. The final regulations adopt this recommendation.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collections of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the burden on taxpayers is minimal and the burden on small entity Agencies is not significant. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting information. The principal author of these regulations is Paul F. Handleman, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.42–17 also issued under 26 U.S.C. 42(n); * * *

Par. 2. Section 1.42–5 is amended by:

1. Removing the word ''Revenue'' in paragraph (b)(1)(iv) and adding ''Omnibus Budget'' in its place.
2. Adding paragraph (b)(3).
3. Revising paragraphs (c)(1)(v), (c)(1)(vi), (c)(1)(xi), (c)(2)(ii), and (c)(2)(iii).
4. Removing the word ''project'' in paragraph (c)(1)(x) and adding ''building'' in its place.
5. Removing the word ''and'' at the end of paragraph (c)(1)(x).
6. Adding paragraph (c)(1)(xii).
7. Removing the language ''paragraph (c)(2)(ii)(A), (B), and (C) of this section'' from the first sentence in paragraph (c)(4)(i) and adding ''paragraph (c)(2)(ii) of this section'' in its place.
8. Removing the language ''Farmers Home Administration (FmHA)'' in the first sentence in paragraph (c)(4)(i) and adding ''Rural Housing Service (RHS), formerly known as Farmers Home Administration,'' in its place.
9. Removing the language ''FmHA'' in paragraph (c)(4)(ii) and adding ''RHS'' in its place in each place it appears.
10. Removing the language ''An Agency chooses the review requirement of paragraph (c)(2)(ii)(A) of this section and some of the buildings selected for review are'' from the first sentence in

the example in paragraph (c)(4)(iii) and adding ''An Agency selects for review'' in its place.

11. Removing the language ''FmHA'' in paragraph (c)(4)(iii) *Example* and adding ''RHS'' in its place in each place it appears.

12. Adding paragraph (c)(5).

13. Revising paragraph (d).

14. Removing the language ''(c)(2)(ii)(A), (B), or (C) of this section (whichever is applicable)'' from paragraph (e)(2) and adding the language ''(c)(2)(ii) of this section'' in its place.

15. Adding a sentence at the end of paragraph (e)(3)(i).

16. Removing the language ''paragraph (e)(3) of this section'' in the third sentence in paragraph (f)(1)(i) and adding ''paragraphs (c)(5) and (e)(3) of this section'' in its place.

17. Adding three sentences at the end of paragraph (h).

The revisions and additions read as follows:

§ 1.42–5 Monitoring compliance with low-income housing credit requirements.

* * * * *

(b) * * *

(3) *Inspection record retention provision.* Under the inspection record retention provision, the owner of a low-income housing project must be required to retain the original local health, safety, or building code violation reports or notices that were issued by the State or local government unit (as described in paragraph (c)(1)(vi) of this section) for the Agency's inspection under paragraph (d) of this section. Retention of the original violation reports or notices is not required once the Agency reviews the violation reports or notices and completes its inspection, unless the violation remains uncorrected.

(c) * * * (1) * * *

(v) All units in the project were for use by the general public (as defined in § 1.42–9), including the requirement that no finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601–3619, occurred for the project. A finding of discrimination includes an adverse final decision by the Secretary of the Department of Housing and Urban Development (HUD), 24 CFR 180.680, an adverse final decision by a substantially equivalent state or local fair housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgment from a federal court;

(vi) The buildings and low-income units in the project were suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards), and the State or local government unit responsible for making local health, safety, or building code inspections did not issue a violation report for any building or low-income unit in the project. If a violation report or notice was issued by the governmental unit, the owner must attach a statement summarizing the violation report or notice or a copy of the violation report or notice to the annual certification submitted to the Agency under paragraph (c)(1) of this section. In addition, the owner must state whether the violation has been corrected;

* * * * *

(xi) An extended low-income housing commitment as described in section 42(h)(6) was in effect (for buildings subject to section 7108(c)(1) of the Omnibus Budget Reconciliation Act of 1989, 103 Stat. 2106, 2308–2311), including the requirement under section 42(h)(6)(B)(iv) that an owner cannot refuse to lease a unit in the project to an applicant because the applicant holds a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937, 42 U.S.C. 1437s (for buildings subject to section 13142(b)(4) of the Omnibus Budget Reconciliation Act of 1993, 107 Stat. 312, 438–439); and

(xii) All low-income units in the project were used on a nontransient basis (except for transitional housing for the homeless provided under section 42(i)(3)(B)(iii) or single-room-occupancy units rented on a month-by-month basis under section 42(i)(3)(B)(iv)).

(2) * * *

(ii) Require that with respect to each low-income housing project—

(A) The Agency must conduct on-site inspections of all buildings in the project by the end of the second calendar year following the year the last building in the project is placed in service and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and

(B) At least once every 3 years, the Agency must conduct on-site inspections of all buildings in the project and, for at least 20 percent of the project's low-income units, inspect the units and review the low-income certifications, the documentation supporting the certifications, and the rent records for the tenants in those units; and

(iii) Require that the Agency randomly select which low-income units and tenant records are to be inspected and reviewed by the Agency. The review of tenant records may be undertaken wherever the owner maintains or stores the records (either on-site or off-site). The units and tenant records to be inspected and reviewed must be chosen in a manner that will not give owners of low-income housing projects advance notice that a unit and tenant records for a particular year will or will not be inspected and reviewed. However, an Agency may give an owner reasonable notice that an inspection of the building and low-income units or tenant record review will occur so that the owner may notify tenants of the inspection or assemble tenant records for review (for example, 30 days notice of inspection or review).

* * * * *

(5) *Agency reports of compliance monitoring activities.* The Agency must report its compliance monitoring activities annually on Form 8610, ''Annual Low-Income Housing Credit Agencies Report.''

(d) *Inspection provision*—(1) *In general.* Under the inspection provision, the Agency must have the right to perform an on-site inspection of any low-income housing project at least through the end of the compliance period of the buildings in the project. The inspection provision of this paragraph (d) is a separate requirement from any tenant file review under paragraph (c)(2)(ii) of this section.

(2) *Inspection standard.* For the on-site inspections of buildings and low-income units required by paragraph (c)(2)(ii) of this section, the Agency must review any local health, safety, or building code violations reports or notices retained by the owner under paragraph (b)(3) of this section and must determine—

(i) Whether the buildings and units are suitable for occupancy, taking into account local health, safety, and building codes (or other habitability standards); or

(ii) Whether the buildings and units satisfy, as determined by the Agency, the uniform physical condition standards for public housing established by HUD (24 CFR 5.703). The HUD physical condition standards do not supersede or preempt local health, safety, and building codes. A low-income housing project under section 42 must continue to satisfy these codes and, if the Agency becomes aware of any violation of these codes, the Agency must report the violation to the Service. However, provided the Agency determines by inspection that the HUD standards are met, the Agency is not required under this paragraph (d)(2)(ii)

to determine by inspection whether the project meets local health, safety, and building codes.

(3) *Exception from inspection provision.* An Agency is not required to inspect a building under this paragraph (d) if the building is financed by the RHS under the section 515 program, the RHS inspects the building (under 7 CFR part 1930), and the RHS and Agency enter into a memorandum of understanding, or other similar arrangement, under which the RHS agrees to notify the Agency of the inspection results.

(4) *Delegation.* An Agency may delegate inspection under this paragraph (d) to an Authorized Delegate retained under paragraph (f) of this section. Such Authorized Delegate, which may include HUD or a HUD-approved inspector, must notify the Agency of the inspection results.

(e) * * *

(3) * * *

(i) * * * If the noncompliance or failure to certify is corrected within 3 years after the end of the correction period, the Agency is required to file Form 8823 with the Service reporting the correction of the noncompliance or failure to certify.

* * * * *

(h) * * * In addition, the requirements in paragraphs (b)(3) and (c)(1)(v), (vi), and (xi) of this section (involving recordkeeping and annual owner certifications) and paragraphs (c)(2)(ii)(B), (c)(2)(iii), and (d) of this section (involving tenant file reviews and physical inspections of existing projects, and the physical inspection standard) are applicable January 1, 2001. The requirement in paragraph (c)(2)(ii)(A) of this section (involving tenant file reviews and physical inspections of new projects) is applicable for buildings placed in service on or after January 1, 2001. The requirements in paragraph (c)(5) of this section (involving Agency reporting of compliance monitoring activities to the Service) and paragraph (e)(3)(i) of this section (involving Agency reporting of corrected noncompliance or failure to certify within 3 years after the end of the correction period) are applicable January 14, 2000.

Par. 3. Section 1.42–6 is amended by:

1. In paragraph (c)(3), second sentence, remove the language ''Annual Low-Income Housing Credit Agencies Report'' and add the language '' 'Annual Low-Income Housing Credit Agencies Report' '' in its place.

2. In paragraph (d)(1), first sentence, remove the language ''Low-Income Housing Credit Allocation Certification,'' and add the language '' 'Low-Income Housing Credit Allocation Certification,' '' in its place.

3. Revising the first sentence in paragraph (d)(4)(ii).

§ 1.42–6 Buildings qualifying for carryover allocations.

* * * * *

(d) * * *

(4) * * *

(ii) *Agency.* The Agency must retain the original carryover allocation document made under paragraph (d)(2) of this section and file Schedule A (Form 8610), ''Carryover Allocation of the Low-Income Housing Credit,'' with the Agency's Form 8610 for the year the allocation is made. * * *

* * * * *

Par. 4. Section 1.42–11 is amended by revising the last sentence in paragraph (b)(3)(ii)(A) to read as follows:

§ 1.42–11 Provision of services.

* * * * *

(b) * * *

(3) * * *

(ii) * * * (A) * * * For a building described in section 42(i)(3)(B)(iii) (relating to transitional housing for the homeless) or section 42(i)(3)(B)(iv) (relating to single-room occupancy), a supportive service includes any service provided to assist tenants in locating and retaining permanent housing.

* * * * *

Par. 5. Section 1.42–12 is amended by adding paragraph (c) to read as follows:

§ 1.42–12 Effective dates and transitional rules.

* * * * *

(c) *Carryover allocations.* The rule set forth in § 1.42–6(d)(4)(ii) relating to the requirement that state and local housing agencies file Schedule A (Form 8610), ''Carryover Allocation of the Low-Income Housing Credit,'' is applicable for carryover allocations made after December 31, 1999.

Par. 6. Section 1.42–13 is amended by:

1. Revising the introductory text of paragraph (b)(3)(iii).

2. Adding paragraphs (b)(3)(vi), (b)(3)(vii), and (b)(3)(viii).

3. Adding a sentence at the end of paragraph (d).

The revisions and additions read as follows:

§ 1.42–13 Rules necessary and appropriate; housing credit agencies' correction of administrative errors and omissions.

* * * * *

(b) * * *

(3) * * *

(iii) *Secretary's prior approval required.* Except as provided in paragraph (b)(3)(vi) of this section, an Agency must obtain the Secretary's prior approval to correct an administrative error or omission, as described in paragraph (b)(2) of this section, if the correction is not made before the close of the calendar year of the error or omission and the correction—

* * * * *

(vi) *Secretary's automatic approval.* The Secretary grants automatic approval to correct an administrative error or omission described in paragraph (b)(2) of this section if—

(A) The correction is not made before the close of the calendar year of the error or omission and the correction is a numerical change to the housing credit dollar amount allocated for the building or multiple-building project;

(B) The administrative error or omission resulted in an allocation document (the Form 8609, ''Low-Income Housing Credit Allocation Certification,'' or the allocation document under the requirements of section 42(h)(1)(E) or (F), and § 1.42–6(d)(2)) that either did not accurately reflect the number of buildings in a project (for example, an allocation document for a 10-building project only references 8 buildings instead of 10 buildings), or the correct information (other than the amount of credit allocated on the allocation document);

(C) The administrative error or omission does not affect the Agency's ranking of the building(s) or project and the total amount of credit the Agency allocated to the building(s) or project; and

(D) The Agency corrects the administrative error or omission by following the procedures described in paragraph (b)(3)(vii) of this section.

(vii) *How Agency corrects errors or omissions subject to automatic approval.* An Agency corrects an administrative error or omission described in paragraph (b)(3)(vi) of this section by—

(A) Amending the allocation document described in paragraph (b)(3)(vi)(B) of this section to correct the administrative error or omission. The Agency will indicate on the amended allocation document that it is making the ''correction under § 1.42–13(b)(3)(vii).'' If correcting the allocation document requires including any additional B.I.N.(s) in the document, the document must include any B.I.N.(s) already existing for buildings in the project. If possible, the additional B.I.N.(s) should be sequentially numbered from the existing B.I.N.(s);

(B) Amending, if applicable, the Schedule A (Form 8610), ''Carryover

Allocation of the Low-Income Housing Credit,'' and attaching a copy of this schedule to Form 8610, ''Annual Low-Income Housing Credit Agencies Report,'' for the year the correction is made. The Agency will indicate on the schedule that it is making the ''correction under § 1.42–13(b)(3)(vii).'' For a carryover allocation made before January 1, 2000, the Agency must complete Schedule A (Form 8610), and indicate on the schedule that it is making the ''correction under § 1.42–13(b)(3)(vii)'';

(C) Amending, if applicable, the Form 8609 and attaching the original of this amended form to Form 8610 for the year the correction is made. The Agency will indicate on the Form 8609 that it is making the ''correction under § 1.42–13(b)(3)(vii)''; and

(D) Mailing or otherwise delivering a copy of any amended allocation document and any amended Form 8609 to the affected taxpayer.

(viii) *Other approval procedures.* The Secretary may grant automatic approval to correct other administrative errors or omissions as designated in one or more documents published either in the **Federal Register** or in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter).

* * * * *

(d) * * * Paragraphs (b)(3)(vi), (vii), and (viii) of this section are effective January 14, 2000.

Par. 7. Section 1.42–17 is added to read as follows:

§ 1.42–17 Qualified allocation plan.

(a) *Requirements*—(1) *In general.* [Reserved]

(2) *Selection criteria.* [Reserved]

(3) *Agency evaluation.* Section 42(m)(2)(A) requires that the housing credit dollar amount allocated to a project is not to exceed the amount the Agency determines is necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period. In making this determination, the Agency must consider—

(i) The sources and uses of funds and the total financing planned for the project. The taxpayer must certify to the Agency the full extent of all federal, state, and local subsidies that apply (or which the taxpayer expects to apply) to the project. The taxpayer must also certify to the Agency all other sources of funds and all development costs for the project. The taxpayer's certification should be sufficiently detailed to enable the Agency to ascertain the nature of the costs that will make up the total financing package, including subsidies and the anticipated syndication or placement proceeds to be raised. Development cost information, whether or not includible in eligible basis under section 42(d), that should be provided to the Agency includes, but is not limited to, site acquisition costs, construction contingency, general contractor's overhead and profit, architect's and engineer's fees, permit and survey fees, insurance premiums, real estate taxes during construction, title and recording fees, construction period interest, financing fees, organizational costs, rent-up and marketing costs, accounting and auditing costs, working capital and operating deficit reserves, syndication and legal fees, and developer fees;

(ii) Any proceeds or receipts expected to be generated by reason of tax benefits;

(iii) The percentage of the housing credit dollar amount used for project costs other than the costs of intermediaries. This requirement should not be applied so as to impede the development of projects in hard-to-develop areas under section 42(d)(5)(C); and

(iv) The reasonableness of the developmental and operational costs of the project.

(4) *Timing of Agency evaluation*—(i) *In general.* The financial determinations and certifications required under paragraph (a)(3) of this section must be made as of the following times—

(A) The time of the application for the housing credit dollar amount;

(B) The time of the allocation of the housing credit dollar amount; and

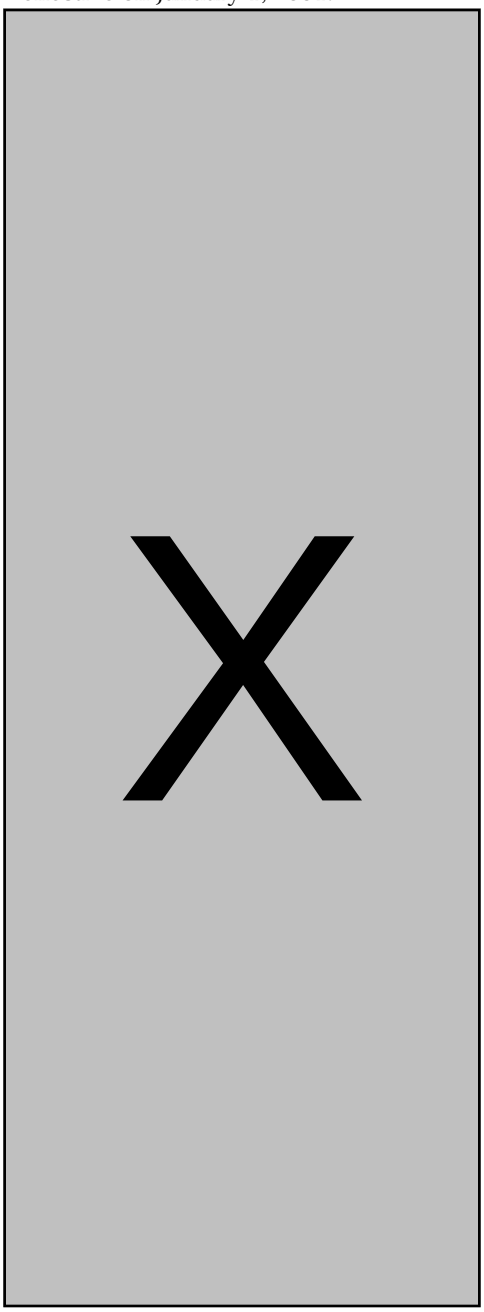
(C) The date the building is placed in service.

(ii) *Time limit for placed-in-service evaluation.* For purposes of paragraph (a)(4)(i)(C) of this section, the evaluation for when a building is placed in service must be made not later than the date the Agency issues the Form 8609, ''Low-Income Housing Credit Allocation Certification.'' The Agency must evaluate all sources and uses of funds under paragraph (a)(3)(i) of this section paid, incurred, or committed by the taxpayer for the project up until date the Agency issues the Form 8609.

(5) *Special rule for final determinations and certifications.* For the Agency's evaluation under paragraph (a)(4)(i)(C) of this section, the taxpayer must submit a schedule of project costs. Such schedule is to be prepared on the method of accounting used by the taxpayer for federal income tax purposes, and must detail the project's total costs as well as those costs that may qualify for inclusion in eligible basis under section 42(d). For projects with more than 10 units, the schedule of project costs must be accompanied by a Certified Public Accountant's audit report on the schedule (an Agency may require an audited schedule of project costs for projects with fewer than 11 units). The CPA's audit must be conducted in accordance with generally accepted auditing standards. The auditor's report must be unqualified.

(6) *Bond-financed projects.* A project qualifying under section 42(h)(4) is not entitled to any credit unless the governmental unit that issued the bonds (or on behalf of which the bonds were issued), or the Agency responsible for issuing the Form(s) 8609 to the project, makes determinations under rules similar to the rules in paragraphs (a) (3), (4), and (5) of this section.

(b) *Effective date.* This section is effective on January 1, 2001.



Internal Revenue Service Notice 88-80
(Income Determination)

Regulations will be issued under Section 42(g)(1) stating that, for purposes of determining qualification as a low-income housing project, the income of individuals and area median gross income will be determined in a manner consistent with the determination of annual income and the estimates for median family income under Section 8 of the U.S. Housing Act of 1937.

Under Section 8 of the Housing Act, median family income estimates are based on decennial Census data updated with Bureau of the Census P-60 income data and Department of Commerce County Business Patterns employment and earnings data. For purposes of these estimates, the term income includes some items that are not included in a taxpayer's gross income for federal income tax purposes.

Full Text: The purpose of this Notice is to inform taxpayers that regulations to be issued under section 42(g)(1) of the Internal Revenue Code of 1986 (the "Code") (relating to the determination of a qualified low-income housing project) will provide that the income of individuals and area median gross income (adjusted for family size) are to be made in a manner consistent with the determination of annual income and the estimates for median family income under section 8 of the United States Housing Act of 1937 (H.U.D. section 8).

For purposes of H.U.D. section 8, annual income is defined under 24 CFR 813.106 (1987). HUD section 8 median family income estimates (*i.e.*, area median gross income estimates) are based on decennial Census data updated with Bureau of the Census P-60 income data and Department of Commerce County Business Patterns employment and earnings data. The determination of annual income and median family income estimates are based on definitions of income that include some items of income that are not included in a taxpayer's gross income for purposes of computing Federal Income Tax liability. Thus, the income of individuals and area median gross income (adjusted for family size) for purposes of section 42(g)(1) of the Code will *not* be made by reference to items of income used in determining gross income for purposes of computing Federal Income Tax liability.

This document serves as an "administrative pronouncement" as that term is described in section 1.6661-3(b)(2) of the Income Tax Regulations and may be relied upon to the same extent as a revenue ruling or revenue procedure.

The principal author of this Notice is Christopher J. Wilson of the Legislation and Regulations Division. For further information regarding this Notice contact Mr. Wilson on (202) 566-4336 (not a toll-free call).

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 38.—General Business Credit

There shall be allowed as a credit against the tax for the taxable year the amount of the current year business credit that includes the low-income housing credit determined under section 42(a) of the Code. See Rev. Rul. 91-38, this page.

Section 42.—Low-Income Housing Credit

(Also Sections 38, 167; 1.167(k)-1.)

Low-income housing credit. This ruling answers 12 frequently asked questions about the low-income housing credit provisions of section 42 of the Code.

Rev. Rul. 91-38

PURPOSE

This revenue ruling answers certain questions about the low-income housing credit provided for in section 42 of the Internal Revenue Code.

LAW

Section 38(a) of the Code provides for a general business credit against tax that includes the amount of the current year business credit. Section 38(b)(5) provides that the amount of the current year business credit includes the low-income housing credit determined under section 42(a). The low-income housing credit that may be claimed in any year is subject to the general business tax credit limitation of section 38(c).

Section 42(a) of the Code, added by section 252 of the Tax Reform Act of 1986 (the "1986 Act"), 1986-3 (Vol. 1) C.B. 106, provides that, for purposes of section 38, the amount of the low-income housing credit determined under section 42 for any tax year in the credit period shall be an amount equal to the "applicable percentage" of the qualified basis of each qualified low-income building.

Credit Period

Section 42(f)(1) of the Code, as amended by section 1002(l)(2)(B) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), 1988-3 C.B. 1, 34, defines the credit period of any building as the period of 10 tax years beginning with the tax year in which the building is placed in service or, at the taxpayer's irrevocable election, the succeeding tax year, but in either case only if the building is a qualified low-income building as of the close of the first year of the credit period.

For purposes of calculating the credit allowable for the first tax year of the credit period, section 42(f)(2) of the Code reduces the credit by applying the following first-year convention: the fraction used to determine qualified basis at the end of the first year is the sum of applicable fractions determined at the end of each full month the building was in service during that year, divided by 12. In the first tax year following the credit period, a taxpayer may recover any reduction in credit caused by applying the first-year convention during the first year of the credit period.

Applicable Percentage

In the case of any qualified low-income building placed in service by

the taxpayer after 1987, section 42(b)(2)(A) of the Code provides that the term "applicable percentage" means the appropriate percentage prescribed by the Secretary for the earlier of (i) the month in which the building is placed in service, or (ii) at the election of the taxpayer (I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to the building (which is binding on the agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to the building, or (II) in the case of any building to which section 42(h)(4)(B) applies, the month in which the tax-exempt obligations are issued. Section 42(b)(2)(B) provides that the percentages prescribed by the Secretary for any month shall be percentages that will yield over a 10-year period amounts of credit that have a present value equal to: (i) 70 percent of the qualified basis, in the case of new buildings that are not federally subsidized for the tax year (70 percent present value credit), and (ii) 30 percent of the qualified basis, in the case of new buildings that are federally subsidized for the tax year and existing buildings (30 percent present value credit). The appropriate credit percentages for each month are published monthly in the revenue ruling containing the applicable federal rates.

Section 42(i)(2)(A) of the Code provides, in part, that for purposes of section 42(b)(1), a new building shall be treated as federally subsidized for any tax year if, at any time during the tax year or any prior tax year, there is or was outstanding any obligation the interest on which is exempt from tax under section 103, or any below market federal loan (as defined in section 42(i)(2)(D)), the proceeds of which are or were used (directly or indirectly) with respect to the building or its operation.

Under section 42(b)(1) of the Code, for any qualified low-income building placed in service by the taxpayer during 1987, the applicable percentage for new buildings not federally subsidized is 9 percent and the applicable percentage for existing or federally-subsidized buildings is 4 percent.

After calendar year 1989, existing buildings that receive moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937, 42 U.S.C. 1437f (1988), at any time during the credit period, generally are not eligible for an allocation of credit. *See* section 7108(h)(5) of the Revenue Reconciliation Act of 1989 (the "1989 Act"), 1990-1 C.B. 214, 222. The provisions of the 1989 Act generally are effective for buildings allocated housing credit dollar amounts after calendar year 1989. If no allocation is necessary by reason of section 42(h)(4) of the Code because the building is substantially financed with certain tax-exempt obligations, the provisions are generally effective for buildings placed in service after December 31, 1989.

The Revenue Reconciliation Act of 1990 (the "1990 Act"), (Pub. L. No. 101-508), provides a limited exception from the exclusion of buildings receiving moderate rehabilitation assistance under section 8(e)(2) of the United States Housing Act of 1937. Beginning with allocations made after 1990, buildings receiving assistance under the Stewart B. McKinney Homeless Assistance Act of 1988 (as in effect on the date of enactment of the 1990 Act) may be eligible for an allocation of credit.

Rehabilitation Expenditures

Under section 42(e)(3)(A) of the Code as in effect prior to the 1989 Act, rehabilitation expenditures paid or incurred by the taxpayer with respect to any building could be treated as a separate new building only if the qualified basis attributable to rehabilitation expenditures incurred during any 24-month period, when divided by the number of low-income units in the building, was $2,000 or more. For calendar years after 1989, rehabilitation expenditures with respect to a building may be treated as a separate new building eligible for the credit under section 42(e)(3)(A) only if (i) the expenditures are allocable to one or more low-income units or substantially benefit such units, and (ii) the amount of such expenditures during any 24-month period meets the greater of the following requirements: (I) the amount is not less than 10 percent of the adjusted basis of the building, or (II) the qualified basis attributable to such expenditures, when divided by the number of low-income units in the building, is $3,000 or more. Under section 42(e)(2)(B), as in effect both before and after the 1989 Act, the term "rehabilitation expenditures" does not include the cost of acquisition of any building.

Former section 42(d)(5)(C) of the Code, which was added by TAMRA, and which is now section 42(d)(5)(B), provides that the eligible basis of any building shall not include any portion of the building's adjusted basis attributable to amounts with respect to which an election is made under section 167(k). The election under section 167(k) is an election to depreciate rehabilitation expenditures incurred with respect to low-income rental housing after July 24, 1969, and before January 1, 1987, under a straight line method using a useful life of 60 months. If no election is made under section 167(k), rehabilitation expenditures incurred by a taxpayer with respect to a low-income rental housing building may be included in the building's eligible basis. Section 1.167(k)-1(b)(1) of the Income Tax Regulations provides rules governing when a taxpayer will be treated as having paid or incurred rehabilitation expenditures.

Under section 1.167(k)-1(b)(1) of the regulations, a taxpayer generally is treated as having paid or incurred rehabilitation expenditures if the rehabilitation is performed by or for the taxpayer or in accordance with the taxpayer's specifications, or if the taxpayer acquires the property attributable to the expenditures (or an interest therein) before the property is placed in service. Section 1.167(k)-1(b)(2) provides that the amount of rehabilitation expenditures treated as paid or incurred by the taxpayer is the lesser of (i) the rehabilitation expenditures paid or incurred before the date on which the taxpayer acquired an interest in the property attributable to the expenditures, or (ii) the taxpayer's cost or other basis for the property attributable to the rehabilitation expenditures paid or incurred before such date. Rehabilitation expenditures treated as having been paid or incurred by the taxpayer are deemed to have been paid or incurred on the date on which the expenditures were actually paid or incurred, determined in accordance with the method of accounting used by the person that actually paid or incurred the expenditures.

A taxpayer acquiring a building from a governmental unit may elect, under section 42(e)(3)(B) of the Code, to meet only the requirement that the qualified basis attributable to the rehabilitation expenditures incurred with respect to the building will be $3,000 or more when divided by the number of low-income units in the building. A taxpayer making this election may claim only the 30 percent present value credit on those expenditures.

Section 42(e)(4)(A) of the Code provides, in part, that expenditures treated as a separate new building under section 42(e) are considered placed in service at the close of the 24-month period during which the expenditures were incurred. According to section 42(e)(4)(B), the applicable fraction for the rehabilitation expenditures is the applicable fraction for the building with respect to which the expenditures were incurred.

Qualified Basis

Section 42(c)(1)(A) of the Code defines the qualified basis of any qualified low-income building for any tax year as an amount equal to (i) the "applicable fraction" (determined as of the close of the tax year) of (ii) the eligible basis of the building (determined under section 42(d)). Under section 42(c)(1)(B), the "applicable fraction" is the smaller of the unit fraction (the number of low-income units divided by the number of all residential rental units) or the floor space fraction (the floor space of the low-income units divided by the floor space of all residential rental units).

In general, the eligible basis of a building under section 42(d) of the Code is its adjusted basis at the close of the first tax year of the credit period. However, a number of limitations apply. For example, if an existing building does not meet the requirements of section 42(d)(2)(B) (as described below), its eligible basis is zero under section 42(d)(2)(A)(ii). In addition, under section 42(e)(5), rehabilitation expenditures that a taxpayer elects to treat as a separate new building under section 42(e) may not be considered part of the eligible basis of an existing building under section 42(d)(2)(A)(i).

Requirements for Existing Buildings

Section 42(d)(2)(A) and (B) of the Code provides that the eligible basis of an existing building will be zero unless the building meets the following requirements: (i) the building is acquired by purchase (as defined in section 179(d)(2)); (ii) there is a period of at least 10 years between the date of the building's acquisition by the taxpayer and the later of (I) the date the building was last placed in service, or (II) the date of the building's most recent nonqualified substantial improvement (as defined in section 42(d)(2)(D)(i)); and (iii) the building was not previously placed in service by the taxpayer or by any person who was a related person with respect to the taxpayer as of the time the building was previously placed in service. Furthermore, existing buildings are eligible for a credit allocation after calendar year 1989 only if a credit is allowable by reason of substantial rehabilitation of the building under section 42(e).

In determining when a building was last placed in service for purposes of satisfying the requirement in section 42(d)(2)(B)(ii) of the Code, section 42(d)(2)(D)(ii) provides that certain placements in service are not taken into account. The 1990 Act provides that as of November 5, 1990 (the date of its enactment), any placement in service of a single-family residence by any individual who owned and used the residence for no other purpose than as a principal residence is not taken into account for purposes of determining whether the 10-year requirement is met. *See* section 42(d)(2)(D)(ii)(V).

Transfers During the Compliance Period

Section 42(d)(7)(A) and (B) of the Code provides, in general, that the requirements of section 42(d)(2)(B) do not apply if a taxpayer acquires an existing building (or interest therein) for which a credit was allowed to any prior owner under section 42(a) and the taxpayer acquires the building (or interest therein) before the end of the building's compliance period. In that case, section 42(d)(7)(A)(ii) provides that the credit allowable to the taxpayer for any period after the acquisition is equal to the amount of credit that would have been allowable for that period to the prior owner had the owner not disposed of the building (or interest therein).

In general, a transfer of the property results in a new placed in service date if, on the date of the transfer, the property is ready and available for its intended purpose. *See* 2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II-91 (1986), 1986-3 (Vol. 4) C.B. 91. However, if section 42(d)(7) of the Code applies to a transfer of the property, the fact that the transfer results in a new placed in service date does not jeopardize the purchaser's eligibility to claim the low-income housing credit, because the requirements of section 42(d)(2)(B) do not apply. According to section 42(f)(4), the credit will be allocated among the parties on the basis of the number of days the building (or interest) was held by each.

Definition of a Qualified Low-Income Housing Project

Under section 42(g)(1) of the Code, a "qualified low-income housing project" is any project for residential rental use that meets one of the following requirements: (A) 20 percent or more of the residential units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income, as adjusted for family size, or (B) 40 percent or more of the residential units in the project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income, as adjusted for family size. Once the taxpayer elects which requirement the project will meet, the election is irrevocable.

For buildings not subject to the amendments of the 1989 Act, section 42(g)(2)(A) of the Code provides that a unit is rent-restricted if the gross rent (defined in section 42(g)(2)(B)) that is paid for the unit does not exceed 30 percent of the income limits applicable to the occupants under section 42(g)(1). For buildings subject to the amendments of the 1989 Act, a residential rental unit is rent-restricted if the gross rent with respect to the unit does not exceed 30 percent of the imputed income limitation applicable to the unit under section 42(g)(2)(C). Furthermore, section 42(g)(2)(A) provides that for buildings subject to the amendments of the 1989 Act, the amount of the income limitation for any period shall not be less than the limitation applicable for the earliest

period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project.

Under section 42(i)(3)(B) of the Code, low-income units must be suitable for occupancy and used other than on a transient basis. Additionally, section 42(i)(3)(C) provides that no unit in a building that has four or fewer residential rental units shall be treated as a low-income unit if the owner of the units is (i) the occupant of a residential unit in the building, or (ii) is related to an occupant of a unit (as "related" is defined in section 42(d)(2)(D)(iii)). However, for calendar years after 1989, if a building is acquired or rehabilitated under a development plan of action sponsored by a State or local government or a qualified nonprofit organization (as defined in section 42(h)(5)(C)), the owner-occupant restriction of section 42(i)(3)(C) is inapplicable. In this case, the applicable fraction shall not exceed 80 percent of the unit fraction and any unit that is not rented for 90 days or more shall be treated as occupied by the owner of the building as of the 1st day it is not rented.

Recapture of Credit

According to section 42(j)(1) and (2) of the Code, if at the close of any tax year in the compliance period the building's qualified basis with respect to the taxpayer is less than the basis as of the close of the preceding tax year, then the taxpayer is liable for additional tax in an amount equal to the accelerated portion of credits allowed in earlier years with respect to the reduction in qualified basis, plus interest. The accelerated portion of the credit under section 42(j)(3) is the excess of (A) the aggregate credit allowed for those years for that basis, over (B) the aggregate credit that would be allowable for those years for that basis if the aggregate credit that would have been allowable for the entire compliance period were allowable ratably over 15 years, rather than 10 years.

If a building fails to remain part of a qualified low-income housing project (for example, because of noncompliance with the minimum set-aside requirement or the rent restrictions or other requirements imposed on the units constituting the set-aside) during the building's 15-year compliance period, the taxpayer or taxpayers that owned the building (or interests therein) must repay the entire accelerated portion of the credit, with interest, for all prior years. Generally, any change in ownership of a building during the building's compliance period is also a recapture event. *See* 2 H.R. Conf. Rep. No. 841, at II-96.

Section 42(j)(6) of the Code permits the taxpayer to avoid recapture upon disposition of the building or an interest therein by furnishing a bond to the Secretary in an amount satisfactory to the Secretary and for the period required by the Secretary, if the building is reasonably expected to continue to be operated as a qualified low-income building. Furthermore, for partnerships consisting of 35 or more partners, unless the partnership elects otherwise, no change in ownership will be deemed to occur if within a 12-month period at least 50 percent (in value) of the original ownership is unchanged. *See* 2 H.R. Conf. Rep. No. 841, at II-96, and H.R. Conf. Rep. No. 1104, 100th Cong., 2d Sess. II-83 (1988), 1988-3 C.B. 473, 573. A *de minimis* rule may apply to certain dispositions of interests in partnerships (other than large partnerships described in section 42(j)(5)) that own buildings for which a credit was claimed. *See* Rev. Rul. 90-60, 1990-2 C.B. 3, for additional information.

Allocation of Credit by Housing Credit Agencies

Under section 42(h)(1) of the Code, a taxpayer may not claim a credit on a qualified low-income building in excess of the housing credit dollar amount allocated to the building by the state or local housing agency in whose jurisdiction the building is located. However, under section 42(h)(4) a taxpayer need not obtain a credit allocation for the portion of a building's eligible basis financed by an obligation which is subject to the volume cap of section 146 and the interest on which is exempt from tax under section 103. Prior to the 1989 Act, if such an obligation financed 70 percent or more of the aggregate basis of the building and the land on which it was located, the entire building was exempt from the limits of section 42(h)(1). Under the 1989 Act, buildings placed in service after calendar year 1989 are exempt from the limits of section 42(h)(1) if 50 percent or more of the aggregate basis of the building and the land on which it is located are financed with such tax-exempt obligations.

Section 42(h)(2)(A) of the Code provides that the housing credit dollar amount allocated to a building for any calendar year applies to the building for all tax years in its compliance period that end during or after the year of allocation. However, under section 42(h)(1)(B), as amended by TAMRA, an allocation is taken into account only if it occurs not later than the close of the calendar year in which the building is placed in service, unless one of the exceptions in section 42(h)(1)(C), (D), (E), or (F) apply. Under section 42(h)(2)(B), the allocation reduces the credit agency's allocable housing credit dollar amount only for the year of the allocation.

QUESTIONS AND ANSWERS

A. *Determination of Credit Period Issues*

Question 1.

How do taxpayers make the election under section 42(f)(1) of the Code to defer the start of the credit period?

Answer 1.

The building owner may elect under section 42(f)(1) of the Code to begin the credit period (and the compliance period) the year after the building is placed in service by checking the appropriate box on line 5a in Part II of Form 8609, Low-Income Housing Credit Allocation Certification. Form 8609 must be attached to the owner's federal income tax return for each year of the 15-year compliance period, which begins with the first year of the credit period. If the owner does not claim a low-income housing credit on its timely filed federal income tax return (taking any extensions into account) for the year in which the building is placed in service, or fails to timely file its federal income tax return for that year, the owner is deemed to have made the irrevocable election to begin the credit period (and the compliance period) the succeeding tax year. In the case of buildings held by flow-through entities, only the entity may file a Form 8609 to make the election under section 42(f)(1). Only one election may be made per building. If there are multiple owners that are not members of a flow-through entity,

and each owner files a Form 8609 with respect to a building, all of the Form 8609s for that building must be consistent with regard to whether the election is made. Unless all the owners of a particular building make the section 42(f)(1) election, the credit period and compliance period for that building will begin with the year in which the building is placed in service. Once made, an election under section 42(f)(1) is binding on the owner and all successors in interest.

Question 2.

X, a calendar year corporation, was created on June 1, 1987. On July 1, 1987, X placed in service a qualified low-income building. If X chooses not to defer the beginning of the credit period under section 42(f)(1) of the Code, when does the credit period for the building begin?

Answer 2.

A building's credit period is the period of 10 years (120 months) beginning with the first day of the tax year in which the building is placed in service, or the succeeding tax year if the election under section 42(f)(1) of the Code is made. The tax year that a building is placed in service is determined, at the time of placement in service, by the tax year of the owner who placed the building in service and is not affected by subsequent changes in the tax year of that owner or by the introduction of subsequent owners with different tax years.

Each building has only one credit period. For purposes of section 42(f) of the Code, when the first tax year of the credit period is a short tax year, the credit period begins 12 months before the end of the short tax year. In other words, the credit period begins on what would have been the first day of the tax year, had the tax year not been a short tax year.

Because *X* came into existence on June 1, 1987, *X* had a short tax year for calendar year 1987. Because *X* did not elect to defer the start of the credit period to the succeeding year, which would have been its first full tax year, the building's credit period began 12 months before the end of *X*'s short tax year. Therefore, the credit period began January 1, 1987, rather than the first day of the short tax year, June 1, 1987. The credit for the first year of the credit period is computed according to the first-year convention in section 42(f)(2) of the Code.

B. *Credit Computation Issues*

Question 3.

X, a calendar year corporation, placed a newly constructed qualified low-income building in service on February 1, 1987. *X* received a $90,000 housing credit allocation for 1987 from the state *Y* housing credit agency based upon the 9 percent applicable credit percentage and had a qualified basis in the building as of December 31, 1987, of $1,000,000. *X* did not elect to defer the start of the credit period under section 42(f)(1) of the Code. For calendar year 1987, *X* claimed a credit using the first-year convention of section 42(f)(2).

During calendar year 1988 (the second year of the credit period), because of a change in annual accounting period permitted under section 442 of the Code, *X* made a short-period return for the 8-month period beginning January 1, 1988, and ending August 31, 1988. May *X* claim any low-income housing credit on its short-period return?

Answer 3.

Yes. As *Answer 2* explains, the building's credit period is determined, at the time of placement in service, by reference to the tax year of the owner who placed the building in service, and is not affected by subsequent changes in the owner's tax year. The amount of credit that a particular owner may claim on its return for a tax year is determined on the last day of that owner's tax year. Because *X* was a calendar year taxpayer and did not elect to defer the start of the credit period, the building's credit period begins January 1, 1987, and ends December 31, 1996.

In accordance with section 42(a) of the Code, the amount of credit that *X* may claim on the short-period return is an amount equal to the product of the applicable percentage of 9 percent and 8/12 of the building's qualified basis as of August 31, 1988. *X* is entitled to only 8/12 of the applicable percentage of the qualified basis on the last day of the short-period tax year because the short period includes only 8 months. If the qualified basis was $1,000,000 on August 31, 1988, *X* would be allowed to claim a credit on its short-period return of $60,000 [(.09) x (8/12 x $1,000,000)]. Assuming *X* retains ownership of the building, continues to comply with the requirements of section 42 of the Code and remains on an August 31 tax year, for each succeeding tax year in the credit period the credit is based upon the qualified basis as of August 31 of that tax year. If the qualified basis on August 31, 1989, is $1,000,000, *X* may claim a credit of $90,000 [(the applicable percentage, .09) x ($1,000,000)] on its federal income tax return for the tax year ending August 31, 1989.

The last 4 months in the credit period (September 1996 through December 1996) are included in *X*'s tax year beginning September 1, 1996, and ending August 31, 1997. The credit for those 4 months is based upon 4/12 of the qualified basis as of August 31, 1997. The credit for *X*'s tax year ending August 31, 1997, consists of the credit for the last 4 months of the credit period plus the disallowed first year credit amount that is carried over to the 11th year under section 42(f)(2)(B) of the Code. *See Question and Answer 5* below.

C. *Availability of Credit to Subsequent Purchasers*

Question 4.

What is the meaning of the word "allowed" as used in section 42(d)(7)(B)(i) of the Code, which permits a subsequent owner to step into the shoes of a prior owner and claim a credit on a qualified low-income building, but only if the credit was "allowed" to a prior owner?

Answer 4.

For purposes of section 42(d)(7)(B)(i) of the Code, the term "allowed" may also mean "allowable." If a qualified low-income building is acquired during the building's compliance period, section 42(d)(7)(B)(i) requires that a credit must have been allowed to a prior owner of the building if the new owner is to continue claiming the credit. In this manner, credits may be transferred to the new purchaser of a building (or interest therein) during the period for which the property is eligible to receive the credit, with the new purchaser "stepping into the shoes" of the seller as to credit percentage, basis, and liability for compliance and recapture. *See* 2 H.R. Conf. Rep. No. 841, at II-87. The purchaser's

basis upon acquisition of the building (or interest therein) for section 42 purposes equals the eligible basis of the building (or interest therein) whether the purchase price is greater or less than that basis.

A credit need not actually have been claimed by a prior owner in order for a subsequent owner to claim the credit under section 42(d)(7) of the Code. If a taxpayer transfers a qualified low-income building (or an interest therein) before actually claiming a credit, but after having received an allocation or having qualified for the credit without an allocation (as provided in this ruling) under section 42(h)(4)(B), the credit will be considered allowed to the prior owner for purposes of section 42(d)(7)(B)(i). However, in order to be treated as having been allowed a credit, a prior owner must have actually received a low-income housing credit allocation for the building from a state housing credit agency before the transfer or must have actually qualified for the credit under section 42(h)(4)(B).

A state credit agency makes an allocation after reviewing the application submitted by the building owner and determining that the building will probably qualify as a qualified low-income building. A state credit agency may issue a reservation of a credit amount or a binding commitment to allocate credit in a later year as a preliminary step to issuing a credit allocation but, unlike a credit allocation, a reservation or a binding commitment may be revoked (for example, if specified conditions are not met by the building owner). Therefore, if a taxpayer transfers a qualified low-income building (or an interest therein) after the state agency reserves a low-income credit for that building but before the agency actually allocates that credit to that building, the credit will not be considered allowed to the prior owner within the meaning of section 42(d)(7)(B)(i) of the Code. If the credit is not considered allowed to the prior owner but the building has not been placed in service so that there is no violation of the 10-year rule in section 42(d)(2)(B)-(ii) (and if the requirements of section 42 are otherwise met), the purchaser may apply to the state housing credit agency for an allocation of credit.

If a taxpayer receives an allocation with respect to a new building during the construction period of the building, as may be the case where the taxpayer expects to use the 10 percent carryover allocation rule in section 42(h)(1)(E) of the Code, and transfers the building (or an interest therein) before the building is placed in service, the purchaser will take an eligible basis in the building (or interest therein) equal to the transferor's eligible basis in the building (or interest) at the time of transfer, whether the purchase price is greater or less than that basis. Because the property has not yet been placed in service, the eligible basis of the building has not yet been determined. The purchaser's eligible basis is determined at the end of the first tax year of the credit period. That eligible basis consists of both the transferor's eligible basis at the time of transfer and any additional costs incurred by the purchaser after the transfer, to the extent includible in eligible basis.

In the case of buildings placed in service after 1989 and financed with tax-exempt bonds issued after 1989, if a credit allocation is not necessary because the building meets the requirements of section 42(h)(4)(B) of the Code, the credit will be considered allowed to the prior owner for purposes of section 42(d)(7)(B)(i) when the following conditions are met: (1) the tax-exempt obligations have been issued; (2) the building has met the requirements for allocation of a housing credit dollar amount under the qualified allocation plan applicable to the area in which the project is located as required by section 42(m)(1)(D); (3) the governmental unit issuing the bonds has determined the credit dollar amount necessary for the financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period as required by section 42(m)(2)(D); and (4) the state housing credit agency has assigned a building identification number (B.I.N.) to the building as is customarily done when an allocation of credit is made by the state housing credit agency.

In the case of buildings financed with tax-exempt bonds issued before 1990, if a credit allocation is not necessary because the building meets the requirements of section 42(h)(4)-(B) of the Code, the credit will be considered allowed to the prior owner for purposes of section 42(d)(7)(B)(i) when the following conditions are met: (1) the tax-exempt obligations have been issued; and (2) the state housing credit agency has assigned a B.I.N. to the building as is customarily done when an allocation of credit is made by the state housing credit agency.

Question 5.

On March 1, 1987, developer D, a calendar-year taxpayer, placed in service a newly completed qualified low-income building. The building consisted of 10 units, all of which were expected to be occupied by low-income tenants. The qualified basis of the building was $100,000. D received a $9,000 housing credit dollar amount allocation for 1987 from the state housing credit agency based upon the 9 percent applicable percentage for newly constructed non-federally-subsidized buildings. D chose not to make the election under section 42(f)(1) of the Code to defer the start of the credit period. On July 20, 1987, D sold the building to T, whose tax year ends August 31. At the time of sale, D had not yet claimed any credit with respect to the building for the period preceding the transfer. Table 1 shows the number of units in the building that were occupied by low-income tenants at the close of each full month between March 1, 1987, and December 31, 1987, the close of the tax year during which the building was placed in service.

Rev. Rul. 91-38, Table 1

Month	Number of occupied low-income units	Total number of units
March	2	10
April	2	10
May	2	10
June	2	10
July	4	10
August	6	10
September	7	10
October	9	10
November	10	10
December	10	10

Is *T* eligible for the low-income housing credit under section 42 of the Code?

Answer 5.

Yes. Although *D* had not claimed any of the low-income housing credit prior to the transfer, *D* received a housing credit dollar amount allocation before the sale of the property, and *D* would have been allowed to claim a credit if *D* had retained ownership of the property and had complied with the requirements of section 42 of the Code. Therefore, under section 42(d)(7), *T* may "step into the shoes" of *D* and may claim the tax credit that would have been allowable to *D* for the period after the acquisition, provided that *T* complies with the requirements of section 42. *See Question and Answer 4.*

The building's credit period is determined by reference to the tax year (at the time of placement in service) of *D*, the owner who placed the building in service, and is not affected by differing tax years of succeeding owners. However, the amount of credit that a particular owner may claim on a return for a tax year is determined on the last day of that owner's tax year. Had *D*, a calendar-year taxpayer, chosen to make the election under section 42(f)(1) of the Code to defer the start of the credit period, *T* would have calculated the credit as of January 1, 1988, the first day of the first year of the building's credit period, even though *T* owned the building prior to the start of the credit period.

For purposes of section 42(f)(4) of the Code, the owner who has held the property for the longest period during the month in which a transfer occurs is deemed to have held the property for the entire month and may claim a credit accordingly. In cases in which the transferor and transferee have held the property for the same amount of time during the month of the transfer, the transferor is deemed to have held the property for the entire month and the transferee's ownership of the property is deemed to begin the first day of the following month. In this example, for purposes of calculating the credit that *T* is entitled to claim, *T* does not immediately "step into the shoes" of *D* when the transfer occurs on July 20, 1987. Instead, because *D* held the property for more than half of the month of July, *T* may not begin claiming the credit that would have been allowable to *D* until August 1, 1987. Thereafter, *T* may claim the credit that would have been allowable to *D* until the end of the credit period (assuming *T* retains ownership of the property and the requirements of section 42 of the Code are otherwise met).

Because *D*, the taxpayer that placed the building in service, was a calendar year taxpayer and because D chose not to make the election under section 42(f)(1) of the Code to defer the start of the credit period, the building's credit period begins the first day of calendar year 1987 (January 1, 1987) and continues for 120 months (until December 31, 1996). The first year of the building's credit period is the period from January 1, 1987, through December 31, 1987.

Under section 42(f)(2) of the Code, the applicable fraction used for determining the credit with respect to any building for the first tax year of the credit period is 1/12 of the sum of the applicable fractions determined under section 42(c)(1) as of the close of each full month of that year during which the building was in service. The sum of the applicable fractions determined under section 42(c)(1) for the period between March 1, 1987 (the date the building was placed in service), and July 31, 1987 (the date through which D is deemed to have owned the property), is 2/10 + 2/10 + 2/10 + 2/10 + 4/10, for a total of twelve-tenths (12/10), which when divided by 12, yields 1/10 or 0.1. Under section 42(f)(2), the credit amount that pertains to the portion of the tax year from March 1, 1987, to July 31, 1987, is $900 (the applicable fraction of 0.1 times the eligible basis of $100,000 times the applicable percentage of .09). Whether D may claim this credit amount will be determined under section 42(j) (relating to recapture of the credit and the posting of a bond). *See* Rev. Rul. 90-60, 1990-2 C.B. 3, for additional information on recapture of the credit and the posting of a bond. *T* is not entitled to claim this credit amount because *T* may claim the credit only for the period after *T* acquires the property. However, during the month that *T* owns the property during its tax year ending August 31, 1987, the applicable fraction is 6/10. Therefore, *T* may claim a credit on its federal income tax return for the tax year ending August 31, 1987, in the amount of $450 (the applicable fraction of 0.05 or (6/10 times 1/12) times the eligible basis of $100,000 times the applicable percentage of .09).

The credit for the first 4 months of T's succeeding tax year, which begins September 1, 1987, and ends August 31, 1988, still must be determined

according to the first-year convention in section 42(f)(2) of the Code. This is because those months are still part of the first year of the building's credit period. The sum of the monthly applicable fractions determined under section 42(c)(1) for the period from September 1, 1987, to December 31, 1987, is 36/10 or 3.6, which, when divided by 12 and multiplied by the eligible basis of $100,000 and the applicable percentage of .09, yields a credit amount of $2,700.

If on August 31, 1988, in T's succeeding tax year, the applicable fraction under section 42(c)(1) of the Code is 10/10 or 1.0, then *T*'s qualified basis at the end of that tax year is $100,000 (1.0 times $100,000 of eligible basis). The credit for the remaining 8 months in *T*'s tax year beginning September 1, 1987, and ending August 31, 1988, is $6,000 (8/12 times $100,000 of qualified basis times the applicable percentage of .09). *T*'s total credit amount for the tax year beginning September 1, 1987, and ending August 31, 1988, is $8,700 ($2,700 + $6,000).

For each of *T*'s succeeding tax years in the credit period, the credit is based upon the qualified basis as of the last day of T's tax year (August 31). The last 4 months in the credit period (September 1996 through December 1996) are included in *T*'s tax year beginning September 1, 1996, and ending August 31, 1997. The credit for those 4 months is based upon 4/12 of the qualified basis as of August 31, 1997. The credit for *T*'s tax year ending August 31, 1997, consists of the credit for the last 4 months of the credit period plus the disallowed first-year credit amount that is carried over to the 11th year under section 42(f)(2)(B) of the Code.

The disallowed first-year credit amount is calculated in the following manner: if the first-year convention of section 42(f)(2) of the Code had not applied to the calculation of the credit for the first year of the building's credit period, the credit amount would have been $9,000 based upon an applicable fraction for that building of 10/10 as of December 31, 1987, multiplied by the eligible basis on that date of $100,000, multiplied by the applicable percentage of .09. However, because of the first-year convention of section 42(f)(2), the allowable credit with respect to the building for the first tax year in the credit period was only $4,050 ($900 allowable to *D* for the period prior to *T*'s acquisition of the building + $450 allowable to *T* for its tax year ending August 31, 1987, + $2,700 for the period between September 1, 1987, and December 31, 1987, allowable to *T* for part of its tax year ending August 31, 1988). Therefore, the carryover credit amount is $4,950 (the difference between $9,000 and $4,050).

This carryover credit is allowable for the first tax year ending after December 31, 1996, the date the credit period ends. Accordingly, for *T*'s tax year ending August 31, 1997, *T* calculates the credit for the last 4 months of the credit period (the period between August 31, 1996, and December 31, 1996), and adds to this the carryover credit. For *T*'s tax year ending August 31, 1997, *T* may claim $3,000 for the 4 month period between September 1, 1996, and December 31, 1996, plus the carryover amount of $4,950, for a total credit in that year of $7,950.

D. *Rehabilitation Expenditures Issues*

Question 6.

If a taxpayer begins the rehabilitation of an existing building in January 1987 and completes the rehabilitation in December 1987, less than 24 months after the rehabilitation began, must the taxpayer wait until December 1988, a 24-month period, before the rehabilitation expenditures are treated as placed in service under section 42(e)(4)(A) of the Code?

Answer 6.

No. Under section 42(e)(3)(A) of the Code, a taxpayer may aggregate all rehabilitation expenditures incurred during any 24-month period for purposes of meeting the minimum expenditures requirement of section 42(e)(3)(A). Although section 42(e)(4)(A) treats the expenditures aggregated under section 42(e)(3)(A) as placed in service at the close of the 24-month period permitted for aggregating such expenditures, if the rehabilitation is completed and the minimum expenditures requirement of section 42(e)(3)(A) is met in less than 24 months, the expenditures may be treated as placed in service at the close of that period; however, in no event may the aggregation period exceed 24 months. Therefore, rehabilitation expenditures are treated as placed in service at the close of the 24-month or shorter aggregation period in which the rehabilitation is completed and the expenditures requirement of section 42(e)(3)(A) is met. Only those rehabilitation expenditures subject to the amendments made by section 201(a) of the 1986 Act (requiring 27.5 year depreciation of residential rental property) are eligible for the low-income housing credit under section 42. Expenditures incurred prior to 1987 and not placed in service prior to 1987 may be eligible for the credit, if the expenditures are subject to the amendments made by section 201(a) of the 1986 Act. *See* section 42(c)(2)(B).

Question 7.

During the period from March 1, 1987, through December 31, 1987, *A*, the owner of an existing building, incurred substantial rehabilitation expenditures in amounts that met or exceeded the minimum expenditures requirement of section 42(e)(3)(A) of the Code. These expenditures were not federally subsidized. On January 1, 1988, *A* sold the building to *B*. On that date, the building did not meet the requirements for an existing building under section 42(d)(2)(B) (in particular, the 10-year requirement of section 42(d)(2)(B)(ii)); however, *B* bought the property before the rehabilitation expenditures were placed in service. May *B* receive a housing credit dollar amount in 1988 based upon the 9 percent applicable percentage (the 70 percent present value credit) for the rehabilitation expenditures?

Answer 7.

Yes. Because *A* had not received a housing credit dollar amount allocation for the rehabilitation expenditures *A* had incurred before selling the property to *B*, no credit was "allowed" to *A* as a prior owner and, therefore, the rules of section 42(d)(7) of the Code do not apply. *See Question and Answer 4.* However, section 1.167(k)-1(b)(1) of the regulations provides rules governing when a taxpayer is treated as having paid or incurred rehabilitation expenditures. Although the election under section 167(k) of the Code may no longer be made with respect to rehabilitation expenditures on a low-income rental housing building, rules

similar to those of section 1.167(k)–1(b)(1) will generally still apply in determining when rehabilitation expenditures are treated as paid or incurred by the taxpayer under section 42. Because *B* acquired the property attributable to the rehabilitation expenditures before such property was placed in service, section 1.167(k)–1(b)(1) treats *B* as having paid or incurred the expenditures to the extent of the lesser of the rehabilitation expenditures paid or incurred before *B*'s acquisition or *B*'s cost or other basis attributable to the rehabilitation expenditures. Accordingly, for purposes of section 42, *B*'s basis in the rehabilitation expenditures is the lesser of *A*'s basis in the rehabilitation expenditures at the time of transfer (in general, *A*'s actual cost paid or incurred for the rehabilitation expenses prior to January 1, 1988), or *B*'s cost or other basis for the property attributable to the rehabilitation expenditures paid or incurred before that date. When *B* places the rehabilitated property in service, that property's original use is considered to begin with *B*.

If *A* had placed the rehabilitation expenditures in service for depreciation purposes before selling the building to *B*, *B* would not be treated as having paid or incurred the expenditures under section 42 of the Code or section 1.167(k)–1(b)(1) of the regulations because *B* would have acquired the property attributable to the rehabilitation expenditures after that property was placed in service. In order for *B* to be eligible to receive a housing credit dollar amount for the cost of acquiring the building, the building would have to meet the requirements for an existing building under section 42(d)(2)(B) of the Code (including the requirement that there be a period of at least 10 years between the date of the building's acquisition and the later of (I) the date the building was last placed in service, or (II) the date of the most recent nonqualified substantial improvement of the building as defined in section 42(d)(2)(D)).

Question 8.

Assume the same facts as in *Question 7*, except that A incurred rehabilitation expenditures that did not equal or exceed the minimum prescribed by section 42(e)(3)(A) of the Code. Is *B* eligible to receive an allocation of credit with regard to the rehabilitation expenditures that *A* incurred?

Answer 8.

Yes. Section 1.167(k)–1(b)(1) of the regulations treats B as having paid or incurred the expenditures, and a similar rule will be applied for purposes of section 42 of the Code. Under section 42(e)(5), *B* may elect to treat *A*'s expenditures either as (a) part of the eligible basis of an existing building that meets the requirements of section 42(d)(2)(B), or (b) part of a series of expenditures treated as a separate new building under section 42(e).

(a) If the existing building that *B* purchased met the requirements of section 42(d)(2)(B) of the Code, *B* could include the rehabilitation expenditures in the building's eligible basis under section 42(d)(2)(A)(i) but only to the extent the cost of the expenditures is not already reflected in the purchase price for the building. *B* would be eligible to receive an allocation of credit, based upon the 30 percent present value credit for existing buildings, with respect to the building's entire eligible basis. However, *see Note*, below.

(b) Alternatively, regardless of whether the building meets the requirements of section 42(d)(2)(B) of the Code, *B* may continue to make rehabilitation expenditures and may count the expenditures made by *A* toward the amount prescribed by section 42(e)(3). Because the expenditures were not federally subsidized, once the aggregate rehabilitation expenditures meet the requirements of section 42(e), *B* would be eligible to receive an allocation of credit, based upon the 70 percent present value credit for new buildings, with respect to the eligible basis attributable to the aggregate rehabilitation expenditures.

Note: Under section 7108(d)(1) of the 1989 Act, generally effective for allocations of credit after December 31, 1989, an existing building is not eligible for the credit unless an allocation of credit is allowable by reason of substantial rehabilitation of the building under section 42(e) of the Code. Therefore, the rehabilitation expenditures would have to equal at least the minimum amount prescribed by section 42(e)(3)(A) if the building is to be eligible for any credit.

E. *10-Year Ownership Requirement for Existing Buildings*

Question 9.

Section 42(d)(2)(B)(ii)(I) of the Code requires that there be a minimum of 10 years between the date a taxpayer acquires an existing building and the date the building was last placed in service. Does this requirement apply only if the building was last placed in service as residential rental property?

Answer 9.

No. Except as provided in section 42(d)(2)(D)(ii) of the Code, for purposes of section 42(d)(2)(B)(ii)(I), there must be a minimum of 10 years between the date a taxpayer acquires an existing building and the date the building was last placed in service for any purpose, whether in a trade or business, in the production of income, in a tax-exempt activity, or in a personal activity.

F. *Qualified Residential Rental Property*

Question 10.

If a taxpayer owned a home and used it as a personal residence can the taxpayer in 1987 convert the property into residential rental property for low-income housing and claim a tax credit for an existing building under section 42(d) of the Code without substantially rehabilitating the building as described in section 42(e)?

Answer 10.

No. In this situation, the taxpayer previously placed the building in service as a personal residence. Under section 42(d)(2)(A)(ii) and (B)(iii) of the Code, an existing building has an eligible basis of zero if it was previously placed in service by the taxpayer or by any person who was a related person (as defined in section 42(d)(2)(D)(iii)) with regard to the taxpayer as of the time the building was previously placed in service. This is the case regardless of whether the taxpayer placed the building in service as a personal residence more than 10 years ago (i.e., regardless of whether the 10-year requirement of section 42(d)(2)(B)(ii) is met).

However, if the taxpayer converts the property into residential rental property for low-income housing and, in so doing, incurs substantial rehabilitation expenditures in the amount prescribed by section 42(e)(3) of the

Code, the taxpayer may treat the rehabilitation expenditures as a separate new building under section 42(e)(1). Because the requirements of section 42(d)(2)(B) do not apply to new buildings, the taxpayer would be eligible for a low-income housing credit allocation based on the qualified basis attributable to the aggregate rehabilitation expenditures.

Question 11.

Taxpayer *A* bought a newly-constructed, single-family home in 1979 and placed it in service as residential rental property. The property was residential rental property from 1979 to 1985, when *A* sold the property to *B* who used it solely as a personal residence from 1985 to 1991. In 1991, if *C* purchases the property, substantially rehabilitates the property, and converts it into residential rental property for low-income housing, may *C* receive a tax credit for acquisition and rehabilitation of an existing building under section 42(d) of the Code?

Answer 11.

Yes. Although there has only been a period of 6 years between the date *C* acquired the property and the date the property was last placed in service by B, section 42(d)(2)(D)(ii)(V) of the Code, as added by the 1990 Act, provides that for allocations of credit made after 1990, there shall not be taken into account, in determining when a building was last placed in service, any placement in service of a single-family residence by any individual who owned and used such residence for no other purpose than as a principal residence. Under this provision, *B*'s placement in service is not taken into account for purposes of the 10-year requirement of section 42(d)(2)(B)(ii). Therefore, there has been at least 10 years between the date C acquired the property in 1991, and the date the building was last placed in service by A in 1979 as residential rental property. Assuming the building meets the other requirements of section 42(d)(2)(B) applicable to existing buildings (including the requirement that a credit is allowable to the building for substantial rehabilitation under section 42(e), unless the exception in section 42(f)(5)(B) applies), C may be eligible to receive a housing credit dollar amount for acquisition and rehabilitation of the single-family home.

G. Rent-restricted Residential Rental Unit

Question 12.

Must the cost of meals provided in a common dining facility of a low-income project be included in gross rent under section 42(g)(2)(A) of the Code?

Answer 12.

Section 42(g)(2)(A) of the Code provides that a residential rental unit is rent-restricted if the gross rent (defined in section 42(g)(2)(B)) that is paid for the unit does not exceed 30 percent of the income limits applicable to the tenants under section 42(g)(1).

Notice 89-6, 1989-1 C.B. 625, provides that the furnishing of services other than housing (whether or not such services are significant) will not prevent property from qualifying as residential rental property. However, any charges for services that are not optional to low-income tenants must be included in gross rent for purposes of section 42(g)(2)(A) of the Code. A service is optional if payment for the service is not required as a condition of occupancy.

In the case of a qualified low-income building with a common dining facility, if a practical alternative exists for tenants to obtain meals other than from the dining facility, and if payment for the meals in the facility is not required as a condition of occupancy, the cost of the meals will not be included in gross rent for purposes of section 42(g)(2)(A) of the Code.

The requirement that a practical alternative exists for tenants to obtain meals other than from the dining facility shall apply to projects receiving allocations of housing credit dollar amounts after calendar year 1991, and for projects not subject to the allocation limits, the requirement shall apply to projects placed in service after calendar year 1991.

EFFECTIVE DATE

The Internal Revenue Service may issue regulations addressing some of the points covered by this ruling. To the extent the regulations are inconsistent with the guidance provided by this ruling, the regulations will have prospective effect. Taxpayers may therefore rely on the provisions of this ruling until further guidance is published.

DRAFTING INFORMATION

The principal author of this revenue ruling is Donna Young of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling contact Ms. Young on (202) 377-6349 (not a toll-free call).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8732]

RIN 1545–AT60

Available Unit Rule

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations concerning the treatment of low-income housing units in a building that is occupied by individuals whose incomes increase above 140 percent of the income limitation applicable under section 42(g)(1). These regulations affect owners of those buildings who claim the low-income housing tax credit.

DATES: These regulations are effective September 26, 1997.

For dates of applicability of these regulations, see § 1.42–15(i).

FOR FURTHER INFORMATION CONTACT: David Selig, (202) 622–3040 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On May 30, 1996, the IRS published a notice of proposed rulemaking in the **Federal Register** (PS–29–95 at 61 FR 27036) proposing amendments to the Income Tax Regulations (26 CFR part 1) under section 42(g)(2)(D) of the Internal Revenue Code. A public hearing was scheduled for September 17, 1996, pursuant to a notice of public hearing published simultaneously with the notice of proposed rulemaking. However, the IRS received no requests to speak at the public hearing, and no public hearing was held. Written comments responding to the notice were received. After consideration of all the comments, the proposed regulations are adopted as revised by this Treasury decision.

Explanation of Revisions and Summary of Comments

The general rule in section 42(g)(2)(D)(i) provides that if the income

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of an occupant of a low-income unit increases above the income limitation applicable under section 42(g)(1), the unit continues to be treated as a low-income unit. This general rule only applies if the occupant's income initially met the income limitation and the unit continues to be rent-restricted. Section 42(g)(2)(D)(ii), however, provides an exception to the general rule in section 42(g)(2)(D)(i). Under this exception, the unit ceases being treated as a low-income unit when two conditions occur. The first condition is that the occupant's income increases above 140 percent of the income limitation applicable under section 42(g)(1), or above 170 percent for a deep rent skewed project described in section 142(d)(4)(B) (applicable income limitation). When this occurs, the unit becomes an over-income unit. The second condition is that a new occupant, whose income exceeds the applicable income limitation (nonqualified resident), occupies any residential unit in the building of a comparable or smaller size (comparable unit).

Rules and Definitions

One commentator suggested that the available unit rule under the proposed regulations did not clearly indicate whether the aggregate income of all occupants of a unit is taken into account. Accordingly, the final regulations clarify that an over-income unit means a low-income unit in which the aggregate income of the occupants of the unit increases above 140 percent of the applicable income limitation under section 42(g)(1), or above 170 percent of the applicable income limitation for deep rent skewed projects described in section 142(d)(4)(B).

Commentators requested that the final regulations specify whether a comparable unit is measured by floor space or number of bedrooms. The final regulations provide that a comparable unit must be measured by the same method the taxpayer used to determine qualified basis for the credit year in which the comparable unit became available.

Some commentators stated that the provision in the proposed regulations that all available comparable units (not just the "next available" unit) must be rented to qualified residents to continue treating an over-income unit as a low-income unit is inconsistent with the title of section 42(g)(2)(D)(ii). Although the title of that provision uses the term next available unit, the text of the rule provides that if any available comparable unit is occupied by a nonqualified resident, the over-income unit ceases to be treated as a low-income unit. This means that if a building has more than one over-income unit, renting any available comparable unit (a comparably sized or smaller unit) to a qualified resident preserves the status of all over-income units as low-income units. Similarly, if any available comparable unit is rented to a nonqualified resident, all over-income units for which the available unit was a comparable unit lose their status as low-income units; thus, comparably sized or larger over-income units would lose their status as low-income units. In operation, this means that the owner must continue to rent any available comparable unit to a qualified resident until the percentage of low-income units in a building (excluding the over-income units) is equal to the percentage of low-income units on which the credit is based. At that point, failure to maintain the over-income units as low-income units has no immediate significance. (However, the failure to maintain an over-income unit as a low-income unit may affect the owner's decision of whether or not to rent a particular available unit at market rate at a later time.) Consequently, the final regulations provide that all available comparable units in the building, not only the next available comparable unit, must be rented to qualified residents to retain the low-income status of the over-income units.

Application of Rules on a Building by Building Basis

The proposed regulations provide that in a project containing more than one low-income building, the available unit rule applies separately to each building. Some commentators suggested that the regulations should permit residents of over-income units to move to available units in different buildings within the same low-income housing project without violating the available unit rule. However, because the requirements under section 42 must be satisfied on a building by building basis, the final regulations provide that the available unit rule only permits a current resident to move to another unit within the same building of a low-income housing project.

In addition, in response to requests from several commentators, the final regulations make clear that when a current resident moves to a different unit within the same low-income building, the units exchange status. (See example 2 of § 1.42-15(g) of the proposed regulations and § 1.42-15(h) of the final regulations.) Thus, the newly occupied unit adopts the status of the vacated unit, and the vacated unit assumes the status the newly occupied unit had immediately prior to its occupancy by the qualifying residents.

Timing Issues

The methods of committing rental units to tenants varies in different jurisdictions. However, it is a common rental practice to have some form of preliminary reservation for a unit prior to the date on which a lease is signed or the unit is occupied. Thus, several commentators have requested clarification that once a unit is reserved for a prospective tenant, it is no longer treated as available for purposes of the available unit rule. Accordingly, the final regulations provide that a unit is not available for purposes of the available unit rule when the unit is no longer available for rent due to a reservation that is binding under local law.

Finally, financing arrangements using obligations that purport to be exempt facility bonds under section 142 must meet the requirements of sections 103 and 141 through 150 for interest on the obligations to be excluded from gross income under section 103(a). The requirements under section 142(d) may differ from those under section 42. Accordingly, the final regulations provide that the rules under the final regulations are not intended as an interpretation of the applicable rules under section 142.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because these regulations do not impose on small entities a collection of information requirement, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information: The principal author of these regulations is David Selig, Office of the Assistant Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

SEP 30 1997 OFFICE OF PROCUREMENT

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.42–15 is also issued under 26 U.S.C. 42(n); * * *

Par. 2. Section 1.42–15 is added to read as follows:

§ 1.42–15 Available unit rule.

(a) *Definitions.* The following definitions apply to this section:

Applicable income limitation means the limitation applicable under section 42(g)(1) or, for deep rent skewed projects described in section 142(d)(4)(B), 40 percent of area median gross income.

Available unit rule means the rule in section 42(g)(2)(D)(ii).

Comparable unit means a residential unit in a low-income building that is comparably sized or smaller than an over-income unit or, for deep rent skewed projects described in section 142(d)(4)(B), any low-income unit. For purposes of determining whether a residential unit is comparably sized, a comparable unit must be measured by the same method used to determine qualified basis for the credit year in which the comparable unit became available.

Current resident means a person who is living in the low-income building.

Low-income unit is defined by section 42(i)(3)(A).

Nonqualified resident means a new occupant or occupants whose aggregate income exceeds the applicable income limitation.

Over-income unit means a low-income unit in which the aggregate income of the occupants of the unit increases above 140 percent of the applicable income limitation under section 42(g)(1), or above 170 percent of the applicable income limitation for deep rent skewed projects described in section 142(d)(4)(B).

Qualified resident means an occupant either whose aggregate income (combined with the income of all other occupants of the unit) does not exceed the applicable income limitation and who is otherwise a low-income resident under section 42, or who is a current resident.

(b) *General section 42(g)(2)(D)(i) rule.* Except as provided in paragraph (c) of this section, notwithstanding an increase in the income of the occupants of a low-income unit above the applicable income limitation, if the income of the occupants initially met the applicable income limitation, and the unit continues to be rent-restricted—

(1) The unit continues to be treated as a low-income unit; and

(2) The unit continues to be included in the numerator and the denominator of the ratio used to determine whether a project satisfies the applicable minimum set-aside requirement of section 42(g)(1).

(c) *Exception.* A unit ceases to be treated as a low-income unit if it becomes an over-income unit and a nonqualified resident occupies any comparable unit that is available or that subsequently becomes available in the same low-income building. In other words, the owner of a low-income building must rent to qualified residents all comparable units that are available or that subsequently become available in the same building to continue treating the over-income unit as a low-income unit. Once the percentage of low-income units in a building (excluding the over-income units) equals the percentage of low-income units on which the credit is based, failure to maintain the over-income units as low-income units has no immediate significance. The failure to maintain the over-income units as low-income units, however, may affect the decision of whether or not to rent a particular available unit at market rate at a later time. A unit is not available for purposes of the available unit rule when the unit is no longer available for rent due to contractual arrangements that are binding under local law (for example, a unit is not available if it is subject to a preliminary reservation that is binding on the owner under local law prior to the date a lease is signed or the unit is occupied).

(d) *Effect of current resident moving within building.* When a current resident moves to a different unit within the building, the newly occupied unit adopts the status of the vacated unit. Thus, if a current resident, whose income exceeds the applicable income limitation, moves from an over-income unit to a vacant unit in the same building, the newly occupied unit is treated as an over-income unit. The vacated unit assumes the status the newly occupied unit had immediately before it was occupied by the current resident.

(e) *Available unit rule applies separately to each building in a project.* In a project containing more than one low-income building, the available unit rule applies separately to each building.

(f) *Result of noncompliance with available unit rule.* If any comparable unit that is available or that subsequently becomes available is rented to a nonqualified resident, all over-income units for which the available unit was a comparable unit within the same building lose their status as low-income units; thus, comparably sized or larger over-income units would lose their status as low-income units.

(g) *Relationship to tax-exempt bond provisions.* Financing arrangements that purport to be exempt-facility bonds under section 142 must meet the requirements of sections 103 and 141 through 150 for interest on the obligations to be excluded from gross income under section 103(a). This section is not intended as an interpretation under section 142.

(h) *Examples.* The following examples illustrate this section:

Example 1. This example illustrates noncompliance with the available unit rule in a low-income building containing three over-income units. On January 1, 1998, a qualified low-income housing project, consisting of one building containing ten identically sized residential units, received a housing credit dollar amount allocation from a state housing credit agency for five low-income units. By the close of 1998, the first year of the credit period, the project satisfied the minimum set-aside requirement of section 42(g)(1)(B). Units 1, 2, 3, 4, and 5 were occupied by individuals whose incomes did not exceed the income limitation applicable under section 42(g)(1) and were otherwise low-income residents under section 42. Units 6, 7, 8, and 9 were occupied by market-rate tenants. Unit 10 was vacant. To avoid recapture of credit, the project owner must maintain five of the units as low-income units. On November 1, 1999, the certificates of annual income state that annual incomes of the individuals in Units 1, 2, and 3 increased above 140 percent of the income limitation applicable under section 42(g)(1), causing those units to become over-income units. On November 30, 1999, Units 8 and 9 became vacant. On December 1, 1999, the project owner rented Units 8 and 9 to qualified residents who were not current residents at rates meeting the rent restriction requirements of section 42(g)(2). On December 31, 1999, the project owner rented Unit 10 to a market-rate tenant. Because Unit 10, an available comparable unit, was leased to a market-rate tenant, Units 1, 2, and 3 ceased to be treated as low-income units. On that date, Units 4, 5, 8, and 9 were the only remaining low-income units. Because the project owner did not maintain five of the residential units as low-income units, the qualified basis in the building is reduced and credit must be recaptured. If the project owner had rented Unit 10 to a qualified resident who was not a current resident,

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eight of the units would be low-income units. At that time, Units 1, 2, and 3, the over-income units, could be rented to market-rate tenants because the building would still contain five low-income units.

Example 2. This example illustrates the provisions of paragraph (d) of this section. A low-income project consists of one six-floor building. The residential units in the building are identically sized. The building contains two over-income units on the sixth floor and two vacant units on the first floor. The project owner, desiring to maintain the over-income units as low-income units, wants to rent the available units to qualified residents. J, a resident of one of the over-income units, wishes to occupy a unit on the first floor. J's income has recently increased above the applicable income limitation. The project owner permits J to move into one of the units on the first floor. Despite J's income exceeding the applicable income limitation, J is a qualified resident under the available unit rule because J is a current resident of the building. The unit newly occupied by J becomes an over-income unit under the available unit rule. The unit vacated by J assumes the status the newly occupied unit had immediately before J occupied the unit. The over-income units in the building continue to be treated as low-income units.

(i) *Effective date.* This section applies to leases entered into or renewed on and after September 26, 1997.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: August 26, 1997.

Donald C. Lubick,

Acting Assistant Secretary of the Treasury.

[FR Doc. 97-25493 Filed 9-25-97; 8:45 am]

BILLING CODE 4830-01-U

Internal Revenue Service Revenue Ruling 92-61 (Treatment of Resident Manager's Unit)

Section 42.—Low-Income Housing Credit

(Also Sections 103, 142; 1.103–8.)

Full-time resident manager in building eligible for low-income housing credit. The adjusted basis of a unit occupied by a full-time resident manager is included in the eligible basis of a qualified low-income building under section 42(d)(1) of the Code, but the unit is excluded from the applicable fraction under section 42(c)(1)(B) for purposes of determining the building's qualified basis.

Rev. Rul. 92-61

ISSUE

If a unit in a qualified low-income building is occupied by a full-time resident manager, is the adjusted basis of that unit included in the building's eligible basis under section 42(d)(1) of the Internal Revenue Code and is that unit included in the applicable fraction under section 42(c)(1)(B) for determining the qualified basis of the building?

FACTS

At the beginning of 1990, *LP*, a limited partnership with a calendar tax year, placed in service a newly constructed apartment building that qualified for the low-income housing credit under section 42(a) of the Code. *LP* elected to meet the 40–60 test of section 42(g)(1)(B), which requires that at least 40 percent of the units in the building be rent-restricted and occupied by tenants whose incomes are 60 percent or less of area median gross income. Throughout 1990, the first year of the building's credit period, 69 of the 70 units in the building were rent-restricted and occupied by tenants whose incomes were 60 percent or less of area median gross income. The remaining unit in the building was occupied by a resident manager who was hired by *LP* to manage the building and to be on call to attend to the maintenance needs of the other tenants. All of the units in the building meet the same standard of quality and have the same amount of floor space.

LAW AND ANALYSIS

Section 42(a) of the Code provides that the amount of the low-income housing credit determined for any tax year in the credit period is an amount equal to the applicable percentage of the qualified basis of each low-income building.

Section 42(c)(1)(A) of the Code defines the qualified basis of any qualified low-income building for any tax year as an amount equal to the applicable fraction, determined as of the close of the tax year, of the eligible basis of the building, determined under section 42(d)(5).

Sections 42(c)(1)(B) of the Code defines the applicable fraction as the smaller of the unit fraction or the floor space fraction. Section 42(c)(1)(B) defines the unit fraction as the fraction the numerator of which is the number of low-income units in the building and the denominator of which is the number of residential rental units, whether or not occupied, in the building. Section 42(c)(1)(D) defines the floor space fraction as the fraction the numerator of which is the total floor space of the low-income units in the building and the denominator of which is the total floor space of the residential rental units, whether or not occupied, in the building. In general, under section 42(i)(3)(B), a low-income unit is any unit that is rent-restricted and occupied by individuals meeting the income limitation applicable to the building.

Section 42(d)(1) of the Code provides that the eligible basis of a new building is its adjusted basis as of the close of the first tax year of the credit period. Section 42(d)(4)(A) provides that, except as provided in section 42(d)(4)(B), the adjusted basis of any building is determined without regard to the adjusted basis of any property that is not residential rental property. Section 42(d)(4)(B) provides that the adjusted basis of any building includes the adjusted basis of property of a character subject to the allowance for depreciation used in common areas or provided as comparable amenities to all residential rental units in the building.

The legislative history of section 42 of the Code states that residential rental property, for purposes of the low-income housing credit, has the same meaning as residential rental property within section 103. The legislative history of section 42 further states that residential rental property thus includes residential rental units, facilities for use by the tenants, and other facilities reasonably required by the project. 2 H.R. Conf. Rep. No. 841, 99th Cong., 2d Sess. II–89 (1986), 1986–3 (Vol. 4) C.B. 89. Under section 1.103–8(b)(4) of the Income Tax Regulations, facilities that are functionally related and subordinate to residential rental units are considered residential rental property. Section 1.103–8(b)(4)(iii) provides that facilities that are functionally related and subordinate to residential rental units include facilities for use by the tenants, such as swimming pools and similar recreational facilities, parking areas, and other facilities reasonably required for the project. The examples given by section 1.103–8(b)(4)(iii) of facilities reasonably required for a project specifically include units for resident managers or maintenance personnel.

Accordingly, the unit occupied by *LP*'s resident manager is residential rental property for purposes of section 42 of the Code. The adjusted basis of the unit is includible in the building's eligible basis under section 42(d)(1). The inclusion of the adjusted basis of the resident manager's unit in eligible basis will not be affected by a later conversion of that apartment to a residential rental unit.

The term "residential rental unit" has a narrower meaning under section 42 of the Code than residential rental property. As noted above, under the legislative history of section 42, residential rental property includes facilities for use by the tenants and other facilities reasonably required by the project, as well as residential rental units. Under section 1.103–8(b)(4) of the regulations, units for resident

managers or maintenance personnel are not classified as residential rental units, but rather as facilities reasonably required by a project that are functionally related and subordinate to residential rental units.

LP's resident manager's unit is properly considered a facility reasonably required by the project, not a residential rental unit for purposes of section 42 of the Code. Consequently, the unit is not included in either the numerator or denominator of the applicable fraction under section 42(c)(1)(B) for purposes of determining the qualifed basis of the building for the first year of the credit period.

Therefore, as of the end of the first year of the credit period, the adjusted basis of the unit occupied by *LP*'s resident manager is included in the building's eligible basis under section 42(d)(1) of the Code, but the unit is excluded from the applicable fraction under section 42(c)(1)(B). Because all of the residential rental units in *LP*'s building are low-income units, the applicable fraction for the building is "one" (69/69, using the unit fraction).

If in a later year of the credit period, the resident manager's unit is converted to a residential rental unit, the unit will be included in the denominator of the applicable fraction for that year. If the unit also becomes a low-income unit in that year, the unit will be included in the numerator of the applicable fraction for that year. In this case, the applicable fraction will also be "one" (70/70, using the unit fraction).

HOLDING

The adjusted basis of a unit occupied by a full-time resident manager is included in the eligible basis of a qualified low-income building under section 42(d)(1) of the Code, but the unit is excluded from the applicable fraction under section 42(c)(1)(B) for purposes of determining the building's qualified basis.

EFFECTIVE DATE

The Internal Revenue Service will not apply this revenue ruling to any building placed in service prior to September 9, 1992, or to any building receiving an allocation of credit prior to September 9, 1992, unless the owner files or has filed a return that is consistent with this ruling. Similarly, the Service will not apply this revenue ruling to any building described in section 42(h)(4)(B) of the Code with respect to which bonds were issued prior to September 9, 1992, unless the owner files or has filed a return that is consistent with this ruling.

DRAFTING INFORMATION

The principal author of this revenue ruling is Paul F. Handleman of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue ruling contact Mr. Handleman on (202) 622-3040 (not a toll-free call).

Internal Revenue Service
Revenue Procedure 94-65
(Documentation of Income from Assets)

Rev. Proc. 94-65

SECTION 1. PURPOSE

This revenue procedure informs housing credit agencies (Agency) and owners of qualified low-income housing projects (owners) when a signed, sworn statement by a low-income tenant will satisfy the documentation requirement of § 1.42-5(b)(1)(vii) of the Income Tax Regulations.

SEC. 2. BACKGROUND

Section 1.42-5 provides the minimum requirements that an Agency's compliance monitoring procedure must contain to satisfy its compliance monitoring duties under § 42(m)(1)(B)(iii). Section 1.42-5(b)(1)(vi) provides that an Agency must require an owner to keep records for each qualified low-income building in the project that show for each year in the compliance period the annual income certifications of each low-income tenant per unit. Section 1.42-5(b)(1)(vii) provides that an Agency must require an owner to keep documents for each qualified low-income building in its project for each year in the compliance period that support each low-income tenant's income certification. The term "low-income tenant" refers to the individuals occupying a rent-restricted unit in a qualified low-income housing project whose annual income satisfies the § 42(g)(1) income limitation elected by the owner of the project. Examples of the documentation required under § 1.42-5(b)(1)(vii) include a copy of the tenant's federal income tax return, Forms W-2, or verifications of income from third parties such as employers or state agencies paying unemployment compensation. A verification of income from a third party is referred to as a "third party verification."

The Internal Revenue Service has determined that an owner may satisfy the documentation requirement of § 1.42-5(b)(1)(vii) for a low-income tenant's income from assets by obtaining a signed, sworn statement from the tenant or prospective tenant if (1) the tenant's or prospective tenant's Net Family assets do not exceed $5,000, and (2) the tenant or prospective tenant provides a signed, sworn statement to this effect to the building owner. See H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 544 (1993).

SEC. 3. SCOPE

This revenue procedure applies to Agencies and owners of qualified low-income housing projects.

SEC. 4. PROCEDURE

.01 To determine a tenant's Net Family assets, owners and Agencies must use the definition of "Net Family assets" in 24 CFR 813.102, which provides definitions for the H.U.D. section 8 program.

.02 Except as provided in sections 4.03 and 4.04 of this revenue procedure, an Agency's monitoring procedure may provide that an owner may satisfy the documentation requirement for income from assets in § 1.42-5(b)(1)(vii) for a low-income tenant whose Net Family assets do not exceed $5,000 by annually obtaining a signed, sworn statement that includes the following:

(1) That the tenant's Net Family assets do not exceed $5,000, and

(2) The tenant's annual income from Net Family assets.

.03 An Agency's monitoring procedure, however, may not permit an owner to rely on a low-income tenant's signed, sworn statement of annual income from assets if a reasonable person in the owner's position would conclude that the tenant's income is higher than the tenant's rep-

resented annual income. In this case, the owner must obtain other documentation of the low-income tenant's annual income from assets to satisfy the documentation requirement in § 1.42-5(b)(1)(vii).

.04 An Agency's monitoring procedure may continue to require that an owner obtain documentation, other than the statement described in section 4.02 of this revenue procedure, to support a low-income tenant's annual certification of income from assets.

SEC. 5. EFFECTIVE DATE

This revenue procedure is effective October 11, 1994.

DRAFTING INFORMATION

The principal author of this r nue procedure is Jeffrey A. Eri of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure, contact Mr. Erickson at (202) 622-3040 (not a toll-free call).

Appendix B

1. IRS Form 8586 – Low-Income Housing Credit
2. IRS Form 8609 – Low-Income Housing Credit Allocation Certification
3. IRS Form 8611 – Recapture of Low-Income Housing Credit
4. IRS Form 8693 – Low-Income Housing Credit Disposition Bond
5. IRS Form 8823 – Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

Form **8586**

Department of the Treasury
Internal Revenue Service

Low-Income Housing Credit

► **Attach to your return.**

OMB No. 1545-0984

1999

Attachment Sequence No. **36b**

Name(s) shown on return

Identifying number

Part I Current Year Credit (See instructions.)

1	Number of Forms 8609 attached ►		
2	Eligible basis of building(s) (total from attached Schedule(s) A (Form 8609), line 1)	**2**	
3a	Qualified basis of low-income building(s) (total from attached Schedule(s) A (Form 8609), line 3)	**3a**	
b	Has there been a decrease in the qualified basis of any building(s) since the close of the preceding tax year? ☐ **Yes** ☐ **No** If "Yes," enter the building identification number (BIN) of the building(s) that had a decreased basis. If more space is needed, attach a schedule to list the BINs. **(i)** ---------- **(ii)** ---------- **(iii)** ---------- **(iv)** ----------		
4	Current year credit (total from attached Schedule(s) A (Form 8609), see instructions)	**4**	
5	Credits from flow-through entities (if from more than one entity, see instructions):		

If you are a—	Then enter total of current year housing credit(s) from—
a Shareholder	Schedule K-1 (Form 1120S), lines 12b(1) through (4)
b Partner	Schedule K-1 (Form 1065), lines 12a(1) through (4), or Schedule K-1 (Form 1065-B), box 8
c Beneficiary	Schedule K-1 (Form 1041), line 14

– ---------- EIN of flow-through entity

5		**5**	
6	Add lines 4 and 5. (See instructions to find out if you complete lines 7 through 17 or file Form 3800.)	**6**	
7	**Passive activity credit** or **total current year credit** for 1999 (see instructions)	**7**	

Part II Tax Liability Limit

8	Regular tax before credits: • Individuals. Enter amount from Form 1040, line 40 • Corporations. Enter amount from Form 1120, Schedule J, line 3 (or Form 1120-A, Part I, line 1) • Other filers. Enter regular tax before credits from your return		**8**	
9a	Credit for child and dependent care expenses (Form 2441, line 9)	**9a**		
b	Credit for the elderly or the disabled (Schedule R (Form 1040), line 20)	**9b**		
c	Child tax credit (Form 1040, line 43)	**9c**		
d	Education credits (Form 8863, line 18)	**9d**		
e	Mortgage interest credit (Form 8396, line 11)	**9e**		
f	Adoption credit (Form 8839, line 15)	**9f**		
g	District of Columbia first-time homebuyer credit (Form 8859, line 11)	**9g**		
h	Foreign tax credit	**9h**		
i	Possessions tax credit (Form 5735, line 17 or 27)	**9i**		
j	Credit for fuel from a nonconventional source	**9j**		
k	Qualified electric vehicle credit (Form 8834, line 19)	**9k**		
l	Add lines 9a through 9k		**9l**	
10	Net regular tax. Subtract line 9l from line 8		**10**	
11	Alternative minimum tax: • Individuals. Enter amount from Form 6251, line 28 • Corporations. Enter amount from Form 4626, line 15. • Estates and trusts. Enter amount from Form 1041, Schedule I, line 39		**11**	
12	Net income tax. Add lines 10 and 11		**12**	
13	Tentative minimum tax (see instructions): • Individuals. Enter amount from Form 6251, line 26 • Corporations. Enter amount from Form 4626, line 13. • Estates and trusts. Enter amount from Form 1041, Schedule I, line 37	**13**		
14	If line 10 is more than $25,000, enter 25% (.25) of the excess (see instructions)	**14**		
15	Enter the greater of line 13 or line 14		**15**	
16	Subtract line 15 from line 12. If zero or less, enter -0-		**16**	
17	**Low-income housing credit allowed for current year.** Enter the **smaller** of line 7 or line 16. Enter here and on Form 1040, line 47; Form 1120, Schedule J, line 4d; Form 1120-A, Part I, line 2a; Form 1041, Schedule G, line 2c; or the applicable line of your return		**17**	

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

An owner of a residential rental building in a qualified low-income housing project uses Form 8586 to claim the low-income housing credit.

The low-income housing credit determined under section 42 is a credit of 70% of the qualified basis of each new low-income building placed in service after 1986 (30% for certain federally subsidized new buildings or existing

buildings). This credit is taken over a 10-year period so that the present value of the 10 annual credit amounts determined as of the last day of the first year of the credit period equals 70% (or 30%) of the building's qualified basis.

In general, the 10-year credit period starts at the beginning of the tax year in which the building is placed in service. However, you may elect to begin the 10-year credit period in the tax year after the year the building was placed in service by checking the "Yes" box in Part II, line 10a of **Form 8609,** Low-Income Housing Credit Allocation Certification.

S Corporations, Partnerships, Estates, and Trusts

Complete Part I to figure the credit to pass through to the shareholders, partners, or beneficiaries. Attach Form 8586 to the entity's income tax return along with Form 8609, and **Schedule A (Form 8609),** Annual Statement, for each building. An electing large partnership treats the part of the credit attributable to property placed in service before 1990 as a "rehabilitation credit" when reporting the credit to its partners.

Qualified Low-Income Housing Project

The low-income housing credit can only be claimed for residential rental buildings in low-income housing projects that meet one of the minimum set-aside tests (20–50 or 40–60 (25–60 for New York City only)). See the instructions for Part II, line 10c of Form 8609 for details. You may elect either test for the project, but once made, the election is irrevocable. The test elected must be the same for all buildings in the project. Use Form 8609 to make this election. See section 42(g) for details.

Except for buildings financed with certain tax-exempt bonds, you may not take a low-income housing credit on a building if it has not received an allocation. Generally, the allocation must be received by the close of the calendar year the building is placed in service. In addition, no credit will be allowed in excess of the amount allocated to the building by the housing credit agency. See section 42(h)(1) for details. An allocation is not needed when **(a)** 50% or more of the aggregate basis of the building and the land on which the building is located is financed with certain tax-exempt bonds issued after 1989 for buildings placed in service after 1989; or **(b)** 70% or more of the aggregate building and land is financed with certain tax-exempt bonds issued before 1990. "Land on which the building is located" includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

Except as noted in the **Specific Instructions,** you must obtain a Form 8609 (with Part I completed) from the state or local housing credit agency for each building for which you are claiming a credit. Attach to your return a copy of Form 8609 and accompanying Schedule A (Form 8609) for each building for each year of the 15-year compliance period. You must also certify certain first-year information to the IRS on Form 8609. If this certification is not made, you may not claim a credit for that building.

Recapture of Credit

There is a 15-year compliance period during which the residential rental building must continue to meet certain requirements. If, as of the close of any tax year in this period, there is a reduction in the qualified basis of any building from the previous year, you may have to recapture a part of the credit you have taken. Similarly, you may have to recapture part of the credits taken in previous years upon certain dispositions of the building or interests therein. Use **Form 8611,** Recapture of Low-Income Housing Credit. See the instructions for Form 8611 and section 42(j) for more information.

Recordkeeping

Keep a copy of this Form 8586 together with all Forms 8609, Schedule(s) A (Form 8609), and Form 8611 for 3 years after the 15-year compliance period ends.

Specific Instructions

Note: *If your only credit is from a flow-through entity (i.e., S corporation, partnership, estate, or trust), you do not have to obtain, complete, or attach Form 8609 or Schedule A (Form 8609) to Form 8586. Also, skip lines 1 through 4.*

Line 1. If any of the attached Forms 8609 are for buildings that are part of a multiple building project (defined in instructions for Part II of Form 8609), attach a schedule listing the following information for each project: **(a)** name and address of the project and each building in the project, **(b)** the building identification number (BIN) of each building in the project, **(c)** the aggregate credit dollar amount for the project, and **(d)** the credit allocated to each building in the project.

Line 3b. A decrease in qualified basis will result in recapture if the qualified basis at the close of the tax year is less than the qualified basis at the close of the first year of the credit period.

Important: *If the reduction in qualified basis at the close of the tax year also results in a violation of the minimum set-aside requirement, then no credit is allowable for the year. If you must recapture credits, use Form 8611. See section 42(j) for more information.*

Line 4. The line 4 credit for the year is figured on Schedule A (Form 8609) for each building. Attach copies of Form(s) 8609 and Schedule(s) A (Form 8609) to Form 8586 for each tax year a credit is claimed. Enter on line 4 the credit from Schedule A (Form 8609). If more than one Form 8609 and related Schedules A are attached, enter on line 4 the total credit from all attached Schedules A.

For a flow-through entity with a line 4 credit attributable to more than one building, attach a schedule to Form 8586 that shows each shareholder's, partner's, or beneficiary's name, identifying number, and share of the line 4 credit and BIN for each building.

Line 5. If you have a credit from a flow-through entity, enter the entity's employer identification number (EIN) and the credit amount on line 5. If you have credits from more than one flow-through entity, attach a statement that shows the EIN and credit amount for each entity. Enter the total credit on line 5.

Line 6. If the line 6 credit is your only 1999 general business credit (see **Note** below) and you do not have a carryback or carryforward of any general business credit, complete line 7 and Part II to determine your allowed low-income housing credit.

If you have more than one of the credits included in the general business credit, a carryback or carryforward of any of these credits, or general credits from an electing large partnership (Schedule K-1, (Form 1065-B)), **do not** complete line 7 or Part II. Enter the line 6 credit on **Form 3800,** General Business Credit, and complete Form 3800 to determine your allowed credit.

Note: *The general business credit consists of several credits including investment (Form 3468), work opportunity (Form 5884), welfare-to-work (Form 8861), alcohol used as fuel (Form 6478), research (Form 6765), low-income housing (Form 8586), disabled access (Form 8826), enhanced oil recovery (Form 8830), renewable electricity production (Form 8835), Indian employment (Form 8845), employer social security and Medicare taxes paid on certain employee tips (Form 8846), orphan drug (Form 8820), contributions to selected community development corporations (Form 8847), and trans-Alaska pipeline liability fund. The empowerment zone employment credit (Form 8844), while a component of the general business credit, is figured separately on Form 8844 and is never carried to Form 3800.*

Line 7. The line 6 credit may be subject to the passive activity credit limitation. Individuals, estates, and trusts should see the separate **Instructions for Form 8582-CR,** Passive Activity Credit Limitations, and closely held corporations should see the separate **Instructions for Form 8810,** Corporate Passive Activity Loss and Credit Limitations, to find out if this limitation applies. If applicable, enter the credit allowed from Form 8582-CR or Form 8810 on line 7. Filers not subject to the passive activity limitation should enter the line 6 amount on line 7.

Line 13. Although you may not owe alternative minimum tax (AMT), you generally must still compute the tentative minimum tax (TMT) to figure your credit. For a small corporation exempt from the AMT under section 55(e), enter zero. Otherwise, complete **and** attach the applicable AMT form or schedule and enter the TMT on line 13.

Line 14. See section 38(c)(3) for special rules that apply to married couples filing separate returns, controlled corporate groups, regulated investment companies, real estate investment trusts, and estates and trusts.

Line 17. If you cannot use part or all of the credit because of the tax liability limit (line 16 is smaller than line 7), carry the excess back 1 year and then forward 20 years. See the separate **Instructions for Form 3800** for details.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	7 hr., 25 min.
Learning about the law or the form	1 hr., 44 min.
Preparing the form	3 hr., 47 min.
Copying, assembling, and sending the form to the IRS	32 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

Form **8609**
(Rev. January 2000)
Department of the Treasury
Internal Revenue Service

Low-Income Housing Credit Allocation Certification

▶ **Do not file separately. The building owner must attach Form 8586, Form 8609, and Schedule A (Form 8609) to its Federal income tax return.**

OMB No. 1545-0988

Attachment Sequence No. **36**

Part I Allocation of Credit—Completed by Housing Credit Agency Only

Check if: ☐ Addition to Qualified Basis ☐ Amended Form

A Address of **building** (do not use P. O. box)(see instructions)

B Name and address of **housing credit agency**

C Name, address, and TIN of **building owner** receiving allocation

TIN ▶

D Employer identification number of agency

E Building identification number (BIN)

1a	Date of allocation ▶ / / **b** Maximum housing credit dollar amount allowable	**1b**	
2	Maximum applicable credit percentage allowable	**2**	%
3a	Maximum qualified basis	**3a**	
b	Check here ▶ ☐ if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(C). Enter the percentage to which the eligible basis was increased (see instructions)	**3b**	1 __ __ %
4	Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)	**4**	%
5	Date building placed in service ▶ / /		

6 Check the box that describes the allocation for the building (check one only):

a ☐ Newly constructed and federally subsidized **b** ☐ Newly constructed and **not** federally subsidized **c** ☐ Existing building
d ☐ Sec. 42(e) rehabilitation expenditures federally subsidized **e** ☐ Sec. 42(e) rehabilitation expenditures **not** federally subsidized

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined Part I of this form and to the best of my knowledge and belief, the information is true, correct, and complete.

▶ Signature of authorized official ▶ Name (please type or print) ▶ Date

Part II First-Year Certification—Completed by Building Owner for First Year of Credit Period Only

7a	Date building placed in service ▶ / / **b** Eligible basis of building (see instructions)	**7b**	
8a	Original qualified basis of the building at close of first year of credit period	**8a**	

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? ☐ Yes ☐ No

9a If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)? ☐ Yes ☐ No

b Do you elect to reduce eligible basis by disproportionate costs of non-low-income units (section 42(d)(3))? ☐ Yes ☐ No

10 Check the appropriate box for each election:

a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ☐ Yes ☐ No

b Elect **not** to treat large partnership as taxpayer (section 42(j)(5)) ☐ Yes

c Elect minimum set-aside requirement (section 42(g)) (see instructions) ☐ 20-50 ☐ 40-60 ☐ 25-60 (N.Y.C. only)

d Elect deep-rent-skewed project (section 142(d)(4)(B)) (see instructions) ☐ 15-40

Note: *A separate **Schedule A (Form 8609),** Annual Statement, for each building must be attached to the corresponding Form 8609 for each year of the 15-year compliance period.*

Caution: *Read the instructions under **Signature** (page 4) **before** signing this part.*

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42 and that the qualified basis of the building has ▶ ☐ has not ▶ ☐ decreased for this tax year. I have examined this form and attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

▶ Signature ▶ Taxpayer identification number ▶ Date

▶ Name (please type or print)

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 is used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 and related **Schedule A (Form 8609),** Annual Statement, are also used to certify certain information.

Housing credit agency. This is any state or local agency authorized to make low-income housing credit allocations within its jurisdiction.

Owner of building. Owners must complete Part II of this form and a separate Schedule A (Form 8609) and attach them to their returns even if an allocation of credit by a housing credit agency is not required. See **Specific Instructions** before completing Part II.

Building identification number (BIN). This number is assigned by the housing credit agency. The BIN initially assigned to a building must be used for any allocation of credit to the building that requires a separate Form 8609 (see **Multiple Forms 8609** on this page). For example, rehabilitation expenditures treated as a separate new building should not have a separate BIN if the building already has one. Use the number first assigned to the building.

Allocation of credit. For an owner to claim a low-income housing credit on a building (except as explained under **Tax-exempt bonds** below), the housing credit agency must make an allocation of the credit by the close of the calendar year in which the building is placed in service, unless:

- The allocation is the result of an advance binding commitment by the credit agency made not later than the close of the calendar year in which the building is placed in service (see section 42(h)(1)(C));
- The allocation relates to an increase in qualified basis (see section 42(h)(1)(D)); **or**
- The allocation is made:

1. For a building placed in service no later than the second calendar year following the calendar year in which the allocation is made if the building is part of a project in which the taxpayer's basis is more than 10% of the project's reasonably expected basis as of the end of that second calendar year; or

2. For a project that includes more than one building if **(a)** the allocation is made during the project period, **(b)** the allocation applies only to buildings placed in service during or after the calendar year in which the allocation is made, and **(c)** the part of the allocation that applies to any building is specified by the end of the calendar year in which the building is placed in service.

See sections 42(h)(1)(E) and 42(h)(1)(F) and Regulations section 1.42-6 for more details.

The agency can only make an allocation to a building located within its geographical jurisdiction. Once an allocation is made, the credit is allowable for all years during the 10-year credit period. A separate Form 8609 must be completed for each building to which an allocation of credit is made.

Multiple Forms 8609. Allocations of credit in separate calendar years require separate Forms 8609. Also, when a building receives separate allocations for acquisition of an existing building and for rehabilitation expenditures, a separate Form 8609 must be completed for each credit allocation.

Tax-exempt bonds. No housing credit allocation is required for any portion of the eligible basis of a qualified low-income building that is financed with tax-exempt bonds taken into account for purposes of the volume cap under section 146. An allocation is not needed when 50% or more of the aggregate basis of the building and the land on which the building is located (defined later) is financed with certain tax-exempt bonds for buildings placed in service after 1989. However, the owner still must get a Form 8609 from the appropriate housing credit agency (with the applicable items of Part I completed, including an assigned building identification number (BIN)).

Land on which the building is located. This includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

When To File

Housing credit agencies should issue a copy of Form 8609 (with only Part I completed) with instructions to the owner of the building. The housing credit agency must keep a copy and send the original to the IRS with **Form 8610,** Annual Low-Income Housing Credit Agencies Report.

Owners must attach completed Forms 8609 and accompanying Schedules A (Form 8609) to **Form 8586,** Low-Income Housing Credit, and file these forms with their income tax returns by the due date of the return for each tax year in which the credit is claimed. They must also attach Forms 8609 and Schedules A to their returns for each later year in the 15-year compliance period.

Note to owners: ***Do not*** *attach Form 8609 or Schedule A (Form 8609) to Form 8586 if the only credit claimed on Form 8586 is from a partnership, S corporation, estate, or trust. The entity will complete those forms and attach them to its return.*

Recordkeeping

To verify changes in qualified basis from year to year, you must keep a copy of this Form 8609 with all accompanying Schedule(s) A (Form 8609), Form 8586, and Form 8611 for 3 years after the 15-year compliance period ends (unless this recordkeeping requirement is otherwise extended).

Specific Instructions

Part I—Allocation of Credit

Completed by Housing Credit Agency Only

Addition to qualified basis. Check this box if an allocation relates to an increase in qualified basis under section 42(f)(3). Enter only the housing credit dollar amount for the increase. Do not include any portion of the original qualified basis when determining this amount.

Amended form. Check this box if this form amends a previously issued form. Complete all entries and explain the reason for the amended form. For example, if there is a change in the amount of initial allocation before the close of the calendar year, file an amended Form 8609 instead of the original form.

Item A. Identify the building for which this Form 8609 is issued when there are multiple buildings with the same address (e.g., BLDG. 6 of 8).

Line 1a. Generally, the date of allocation is the date the Form 8609 is completed, signed, and dated by an authorized official of the housing credit agency. However, if an allocation is made under section 42(h)(1)(E) or 42(h)(1)(F), the date of allocation is the date the authorized official of the housing credit agency completes, signs, and dates the section 42(h)(1)(E) or 42(h)(1)(F) document used to make the allocation. If no allocation is required (i.e., 50% or greater tax-exempt bond financed building), leave line 1a blank.

Line 1b. Enter the housing credit dollar amount allocated to the building for each year of the 10-year credit period. The amount should equal the percentage on line 2 multiplied by the amount on line 3a. For tax-exempt bond projects for which no allocation is required, enter the housing credit dollar amount allowable under section 42(m)(2)(D).

Line 2. Enter the maximum applicable credit percentage allocated to the building for the month the building was placed in service or, if applicable, for the month determined under section 42(b)(2)(A)(ii).

If an election is made under section 42(b)(2)(A)(ii) to use the applicable percentage for a month other than the month in which a building is placed in service, the requirements of Regulations section 1.46-8 must be met. The agency must keep a copy of the binding agreement and the election statement and

file the original with the agency's Form 8610 for the year the allocation is actually made. The maximum applicable credit percentage is published monthly in the Internal Revenue Bulletin. For new buildings that are not federally subsidized under section 42(i)(2)(A), use the applicable percentage for the 70% present value credit. For new buildings that are federally subsidized, or existing buildings, use the applicable percentage for the 30% present value credit. See the instructions for line 6 for the definition of "Federally subsidized." A taxpayer may elect under section 42(i)(2)(B) to reduce eligible basis by the principal amount of any outstanding below-market Federal loan or the proceeds of any tax-exempt obligation in order to obtain the higher credit percentage (see Part II, line 9a).

For allocations to buildings for additions to qualified basis under section 42(f)(3), do not reduce the maximum applicable credit percentage even though the building owner may only claim a credit based on two-thirds of the credit percentage allocated to the building.

Line 3a. Enter the maximum qualified basis of the building. To figure this, multiply the eligible basis of the qualified low-income building by the smaller of:

1. The percentage of low-income units to all residential rental units (the "unit percentage"), or

2. The percentage of floor space of the low-income units to the floor space of all residential rental units (the "floor-space percentage").

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. Section 42(i)(3) provides for certain exceptions (e.g., units that provide for transitional housing for the homeless may qualify as low-income units). See sections 42(i)(3) and 42(c)(1)(E) for more information.

Except as explained in the instructions for line 3b, below, the **eligible basis** for a new building is its adjusted basis as of the close of the first tax year of the credit period. For an existing building, the eligible basis is its acquisition cost plus capital improvements through the close of the first tax year of the credit period. See the instructions for Part II, line 7b, and section 42(d) for other exceptions and details.

Line 3b. Special rule to increase basis for buildings in certain high-cost areas. If the building is located in a high-cost area (i.e., a "qualified census tract" or a "difficult development area"), the eligible basis may be increased as follows:

- For new buildings, the eligible basis may be up to 130% of such basis determined without this provision.
- For existing buildings, the rehabilitation expenditures under section 42(e) may be up to 130% of the expenditures determined without regard to this provision.

Enter the percentage to which eligible basis was increased. For example, if the eligible basis was increased to 120%, enter "120." See section 42(d)(5)(C) for definitions of a qualified census tract and a difficult development area, and for other details.

Note: *Before increasing eligible basis, the eligible basis must be reduced by any Federal subsidy that the taxpayer elects to exclude from eligible basis and any Federal grant received.*

Line 4. Enter the percentage of the aggregate basis of the building financed by certain tax-exempt bonds. If this amount is zero, enter zero (do not leave this line blank).

Line 5. The placed-in-service date for a residential rental building is the date the first unit in the building is ready and available for occupancy under state or local law. Rehabilitation expenditures treated as a separate new building under section 42(e) are placed in service at the close of any 24-month period over which the expenditures are aggregated, whether or not the building is occupied during the rehabilitation period.

Line 6. Generally, a building is treated as federally subsidized if at any time during the tax year or any prior tax year there is outstanding any tax-exempt bond financing or any below-market Federal loan, the proceeds of which are used (directly or indirectly) for the building or its operation.

However, buildings receiving assistance under the Home Investment Partnership Act (as in effect on August 10, 1993) are **not** treated as federally subsidized if 40% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income. Buildings located in New York City receiving this assistance are not treated as federally subsidized if 25% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income.

Generally, no credit is allowable for acquisition of an existing building unless substantial rehabilitation is done. See sections 42(d)(2)(B)(iv) and 42(f)(5). **Do not** issue Form 8609 for acquisition of an existing building unless substantial rehabilitation under section 42(e) is placed in service.

Part II—First-Year Certification

Completed by Building Owner for the First Year of Credit Period Only

Note: *Form 8609 is invalid unless Part I is completed by the appropriate housing credit agency.*

Line 7a. See the instructions for line 5. This date must correspond with the date certified to the housing credit agency.

Line 7b. Enter the eligible basis (in dollars) of the building. Determine eligible basis at the close of the first year of the credit period (see sections 42(f)(1), 42(f)(5), and 42(g)(3)(B)(iii) for determining the start of the credit period).

For new buildings, the eligible basis is generally the cost of construction or rehabilitation expenditures incurred under section 42(e).

For existing buildings, the eligible basis is the cost of acquisition plus rehabilitation expenditures not treated as a separate new building under section 42(e) incurred by the close of the first year of the credit period.

If the housing credit agency has entered an increased percentage in Part I, line 3b, multiply the eligible basis by the increased percentage and enter the result.

Residential rental property may qualify for the credit even though part of the building in which the residential rental units are located is used for commercial use. Do not include the cost of the nonresidential rental property. However, you may generally include the basis of common areas or tenant facilities, such as swimming pools or parking areas, provided there is no separate fee for the use of these facilities and they are made available on a comparable basis to all tenants in the project. You must reduce the eligible basis by the amount of any Federal grant received. Also reduce the eligible basis by the entire basis allocable to non-low-income units that are above the average quality standard of the low-income units in the building. You may, however, include a portion of the basis of these non-low-income units if the cost of any of these units does not exceed by more than 15% the average cost of all low-income units in the building, and you elect to exclude this excess cost from the eligible basis by checking the "Yes" box for line 9b. See section 42(d).

You may elect to reduce the eligible basis by the principal amount of any outstanding below-market Federal loan or the proceeds of any tax-exempt obligation to obtain a higher credit percentage. To make this election, check the "Yes" box in Part II, line 9a. Reduce the eligible basis by the principal amount of such loan or obligation proceeds before entering the amount on line 7b. You must reduce the eligible basis by the principal amount of such loan or obligation proceeds or any Federal grant received before multiplying the eligible basis by the increased percentage in Part I, line 3b.

Line 8a. Multiply the eligible basis of the building shown on line 7b by the smaller of the unit percentage or the floor space percentage as of the close of the first year of the credit period and enter the result on line 8a. Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied. See the instructions for Part I, line 3a, on page 3.

Line 8b. Each building is considered a separate project under section 42(g)(3)(D) unless, before the close of the first calendar year in the project period (defined in section 42(h)(1)(F)(ii)), each building that is (or will be) part of a multiple building project is identified by attaching a statement to your tax return (as required in the instructions for Form 8586, line 1) that includes **(a)** the name and address of the project and each building in the project, **(b)** the building identification number (BIN) of each building in the project, **(c)** the aggregate credit dollar amount for the project, and **(d)** the credit allocated to each building in the project.

Two or more qualified low-income buildings may be included in a **multiple building project** only if they **(a)** are located on the same tract of land (unless all of the dwelling units in all of the buildings being aggregated in the multiple building project are low-income units—see section 42(g)(7)), **(b)** are owned by the same person for Federal tax purposes, **(c)** are financed under a common plan of financing, and **(d)** have similarly constructed housing units. A qualified low-income building includes residential rental property that is an apartment building, a single-family dwelling, a town house, a row house, a duplex, or a condominium.

Line 9a. You may elect to reduce the eligible basis by the principal amount of any outstanding below-market Federal loan or the proceeds of any tax-exempt obligation and claim the 70% present value credit on the remaining eligible basis. However, if you make this election, you may not claim the 30% present value credit on the portion of the basis that was financed with the below-market Federal loan or the tax-exempt obligation.

Line 9b. See the instructions for Part II, line 7b, on page 3.

Line 10a. You may elect to begin the credit period in the tax year after the building is placed in service. Once made, the election is irrevocable.

Note: *Section 42(g)(3)(B)(iii) provides special rules for determining the start of the credit period for certain multiple building projects.*

Line 10b. Partnerships with 35 or more partners are treated as the taxpayer for purposes of recapture unless an election is made not to treat the partnership as the taxpayer. Check the "Yes" box if you do **not** want the partnership to be treated as the taxpayer for purposes of recapture. Once made, the election is irrevocable.

Line 10c. You must meet the minimum set-aside requirements under section 42(g) for the project by electing one of the following tests:

1. 20-50 Test: 20% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income, or

2. 40-60 Test: 40% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income.

Once made, the election is irrevocable.

Note: *Owners of buildings in projects located in New York City may **not** use the 40-60 test. Instead, they may use a **25-60 Test:** 25% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income (see also section 142(d)(6)).*

Caution: *The minimum set-aside requirement must be met by the close of the first year of the credit period in order to claim any credit for the first year or for any subsequent years.*

Line 10d. The deep-rent-skewed 15-40 election is not an additional test for satisfying the minimum set-aside requirements of section 42(g). The 15-40 test is an election that relates to the determination of a low-income tenant's income. Generally, a continuing resident's income may increase up to 140% of the applicable income limit (50% or less **or** 60% or less of the area median gross income under the minimum set-aside rules in **Line 10c** above). When the deep-rent-skewed election is made, the income of a continuing resident may increase up to 170% of the applicable income limit. If this election is made, at least 15% of all low-income units in the project must be occupied at all times during the compliance period by tenants whose income is 40% or less of the area median gross income. A deep-rent-skewed project itself must meet the requirements of section 142(d)(4)(B). Once made, the election is irrevocable.

Signature

Because Form 8609 requires an original signature each year and the form is not issued annually by the housing credit agency, complete the following steps after you receive the form from the agency:

1. Complete Part II of the form (do not sign it).

2. After completing Part II, make a copy of the form.

3. Complete all items in the signature section of the copy that you file. Keep the original copy you receive from the housing credit agency so that copies can be made from the unsigned original copy and used for filing with your future years' income tax returns.

4. Complete Schedule A (Form 8609) for each building and attach it to the signed copy of Form 8609 you attach to your income tax return.

5. If the maximum applicable credit percentage allocated to the building in Part I, line 2, reflects an election made under section 42(b)(2)(A)(ii), you must attach a copy of the election statement and, if the binding agreement specifying the housing credit dollar amount is contained in a separate document, a copy of the binding agreement to Form 8609 for the first tax year in which the credit is claimed.

6. If the housing credit dollar amount allocated in Part I, line 1b, reflects an allocation made under section 42(h)(1)(E) or 42(h)(1)(F), you must attach a copy of the allocation document to Form 8609 for the first tax year the credit is claimed.

Note: *If you received more than one allocation (e.g., an allocation the year the building was placed in service and a second allocation based on an addition to qualified basis), attach signed copies of both Forms 8609 to your return.*

Paperwork Reduction Act Notice. We ask for the information on these forms to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file the following forms will vary depending on individual circumstances. The estimated average times are:

Form 8609

Learning about the law or the form	2 hr., 17 min.
Recordkeeping	8 hr., 37 min.
Preparing and sending the form to the IRS	2 hr., 31 min.

Schedule A (Form 8609)

Learning about the law or the form	47 min.
Recordkeeping	6 hr., 41 min.
Preparing and sending the form to the IRS	56 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Internal Revenue Service at the address listed in the instructions for the tax return with which these forms are filed.

SCHEDULE A (Form 8609)
(Rev. January 2000)
Department of the Treasury
Internal Revenue Service

Annual Statement

► **Attach to Form 8609 and file with owner's Federal income tax return.**

► **For Paperwork Reduction Act Notice, see instructions for Form 8609.**

OMB No. 1545-0988

Attachment Sequence No. **36a**

A Building owner's name

B Identifying number ►

C Building identification number ►

1	Eligible basis of building	**1**	
2	Low-income portion (smaller of unit percentage or floor-space percentage) (if first year of the credit period, see instructions)	**2**	.
3	Qualified basis of low-income building. Multiply line 1 by line 2 (see instructions for exceptions)	**3**	
4	Part-year adjustment for disposition or acquisition during the tax year	**4**	
5	Credit percentage	**5**	.
6	Multiply line 3 or line 4 by the percentage on line 5	**6**	
7	Additions to qualified basis, if any	**7**	
8	Part-year adjustment for disposition or acquisition during the tax year	**8**	
9	Credit percentage. Enter one-third of the percentage on line 5	**9**	.
10	Multiply line 7 or line 8 by the percentage on line 9	**10**	
11	Section 42(f)(3)(B) modification	**11**	
12	Add lines 10 and 11	**12**	
13	Credit for building before line 14 reduction. Subtract line 12 from line 6	**13**	
14	Disallowed credit due to Federal grants (see instructions)	**14**	
15	Credit allowed for building for tax year. Subtract line 14 from line 13, but do not enter more than the amount shown on Form 8609, Part I, line 1b	**15**	
16	Taxpayer's proportionate share of credit for the year (see instructions)	**16**	
17	Adjustments for deferred first-year credit and prior election to accelerate credit (see instructions)	**17**	
18	Taxpayer's credit. Combine lines 16 and 17. Enter here and in Part I of Form 8586 (see instructions)	**18**	

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note: *Some of the line numbers on the December 1988 and March 1991 revisions of Form 8609 differ from later revisions. In these cases, the line references that correspond to the 1988 or 1991 revisions, if different, are shown in parentheses in these instructions.*

Purpose of Schedule

Schedule A (Form 8609) must be completed by the building owner each year of the 15-year compliance period, whether or not a credit is claimed for the tax year. For a building receiving separate allocations for the existing building and for the rehabilitation expenditures, a separate Schedule A must be completed for each credit claimed.

The building owner must attach Schedule A, the owner's copy of Form 8609, and **Form 8586,** Low-Income Housing Credit, to the owner's tax return. If the owner is a partnership, S corporation, estate, or trust (flow-through entity), the entity will complete and attach these forms to its return. If you are a partner, shareholder, or beneficiary in a flow-through entity that owns the building, Form 8586 is the only form needed to claim the credit.

Recapture of Credit

If the qualified basis of the building has decreased from the qualified basis at the close of the previous tax year, you may have to recapture parts of the credits allowed in previous years. See **Form 8611,** Recapture of Low-Income Housing Credit.

Specific Instructions

Item B. If you are an individual, enter your social security number. All others, enter your employer identification number.

Item C. Enter the building identification number from Part I, item E, of Form 8609.

Line 1. Generally, the eligible basis of a building for its entire 15-year compliance period is the amount of eligible basis entered on Form 8609, line 7b (Part II, line 1b, on the 1988 and 1991 revisions).

Basis increases for buildings in certain high-cost areas. In order to increase the allocated credit for buildings in certain high-cost areas, the housing credit agency may increase the eligible basis of buildings located in these areas (after adjustments, if any, for Federal subsidies and grants). The agency may make this increase under the high-cost-area provisions of section 42(d)(5)(C).

The agency shows the increased percentage of the eligible basis in Part I, line 3b, of Form 8609. The eligible basis entered on Form 8609 should reflect the percentage increase.

If the agency used an earlier revision of Form 8609 that did not have line 3b in Part I to issue a 1990 credit allocation to which the high-cost-area provisions were applied, it should have notified you of the Part I percentage increase in a separate statement. Based on this statement, increase the eligible basis of the building reported in Part II of the Form 8609 you file.

Note: *This increase cannot cause the credit on line 15 of Schedule A to exceed the credit amount allocated on line 1b, Part I of Form 8609.*

Basis reductions. The amount of eligible basis entered on Form 8609 does not include the cost of land, the amount of any Federal grant received for the building during the first year of the credit period, or any portion of a building's adjusted basis for which an election was made prior to November 5, 1990, under section 167(k). Do not reduce the eligible basis on line 1 of Schedule A by the amounts of any Federal grants received after the first year of the credit period. The calculation for line 14 of Schedule A will reduce the credit by the amount of any Federal grants received during the compliance period that did not reduce the eligible basis during the first year of the credit period.

For more details on determining eligible basis, see the instructions for Form 8609, line 7b (Part II, line 1b, on the 1988 and 1991 revisions).

Line 2. Only the portion of the basis on line 1 attributable to the low-income rental units in the building at the close of the tax year qualifies for the credit. This is the **smaller** of **(a)** the percentage of low-income units to all residential rental units (the "unit percentage") or **(b)** the percentage of floor space of the low-income units to the floor space of all residential rental units (the "floor space percentage"). This percentage must be shown on line 2 as a decimal carried out to at least four places (e.g., 50% = .5000). Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied.

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. Section 42(i)(3) provides for certain exceptions (e.g., units that provide

transitional housing for the homeless may qualify as low-income units). See section 42(i)(3) for more details.

If you dispose of the building, or your entire interest in the building, before the close of the tax year, the low-income portion must be determined on the date you disposed of the building. If you dispose of less than your entire interest in the building, the low-income portion must be determined at the close of the tax year.

First-year modified percentage. For the first year of the credit period, you must use a modified percentage on line 2 to reflect the average portion of a 12-month period that the units in a building were occupied by low-income individuals. Find the low-income portion as of the end of each **full** month that the building was in service during the year. Add these percentages together and divide by 12. Enter the result on line 2. For example, if a building was in service for the last 3 full months of your tax year, and was half occupied by low-income tenants as of the end of each of those 3 months, then assuming the smaller percentage was the unit percentage, you would enter .1250 on line 2 (i.e., [.5 +.5 + .5] ÷ 12 = .1250).

This first year adjustment does not affect the amount of qualified basis on which the credit is claimed in the remaining 9 years of the credit period. In general, the credit is claimed in the remaining 9 years by reference to the qualified basis at the close of each tax year.

Because the first year credit is not determined solely by reference to the qualified basis at the close of the first year of the credit period, any reduction in credit resulting from the application of the first year adjustment may be claimed in the 11th year. See the instructions for line 17 on page 3.

Line 3. Generally, multiply line 1 by line 2 to figure the portion of the eligible basis of the building attributable to the low-income residential rental units.

Imputed qualified basis of zero. However, the qualified basis of the building (line 3) is zero if any of the following three conditions apply.

1. The minimum set-aside requirement elected for the project on Form 8609, line 10c (Part II, line 5c, on the earlier revisions), is not met.

2. The deep-rent-skewed test (15-40 Test) elected for the project on Form 8609, line 10d (Part II, line 5c, on the 1988 revision; Part II, line 5d, on the 1991 revision), is violated. The 15-40 Test is not an additional test for satisfying the minimum set-aside requirements of section 42(g). The 15-40 Test is an election that relates to the determination of a low-income tenant's income. If this test is elected, at least 15% of all low-income units in the project must be occupied at all times during the compliance period by tenants whose income is 40% or less of the area median gross income.

3. You disposed of the building or your entire interest therein during the tax year. If you did not post a bond, in addition to using an imputed basis of zero on line 3, you may have to recapture a portion of credits previously taken. File Form 8611 to figure and report the recapture amount. This paragraph affects only those taxpayers who dispose of the building or their entire interest therein. Those acquiring the building (or any interest therein) are not affected and, if the minimum set-aside requirements are otherwise satisfied, they may take a credit for the fraction of the year the building is owned by them, regardless of whether or not the seller posted a bond.

Regulations under section 42(j) may provide other instances where you will have an imputed qualified basis of zero.

Note: *If the qualified basis of the building is zero, or if the building has an imputed qualified basis of zero, you may* ***not*** *claim a credit for the building for the tax year. You must enter zero on lines 3 and 16, and skip lines 4 through 15 and lines 17 and 18.*

At-risk limitation for individuals and closely held corporations. The basis of property may be limited if you borrowed against the property and are protected against loss, or if you borrowed money from a person who has other than a creditor interest in the property. See section 42(k).

Line 4. If you disposed of a building or your entire interest therein during the tax year and you posted a bond under section 42(j)(6), you may claim a credit based only on the number of months during the tax year for which you owned the building or an interest therein. Similarly, if you previously had no interest in the building, but you acquired the building or an interest therein during the tax year, you may claim a credit based only on the number of months during the tax year for which you owned the building or an interest therein.

If the building is owned by a flow-through entity, the entity does not need to make any adjustment on line 4, unless the entity either disposes of the building or its entire interest therein, or acquires the building or an interest therein during the tax year (and the entity previously had no interest in the building). Do not make an adjustment on line 4 for changes in the interests of the members of the flow-through entity during the tax year. Instead, the entity must reflect these changes in the amount of credit it passes through to its members.

The owner who has owned the building for the longest period during the month in which the change in ownership occurs is deemed to have owned the building for that month. If the seller and new owner have owned the building for the same amount of time during the month of disposition, the seller is deemed to have owned the building for that month.

If you owned the building, or an interest therein, for the entire year (i.e., the full 12 months in your tax year), enter zero on line 4 and go to line 5. If, for a portion of the tax year, you had no ownership interest in the building, multiply the qualified basis on line 3 by a fraction, the numerator of which is the number of months during the tax year that you owned the building and the denominator of which is 12 (e.g., if line 3 is $100,000 and the building was owned for 9 months, then line 4 would be $75,000 (9/12 × $100,000)). Enter the result on line 4.

Note: *Upon a change of ownership, the seller must give the new owner a copy of Form 8609 with Parts I and II completed and the signature area blank. The buyer and seller must retain copies of Form 8609 for recordkeeping purposes. The new owner must follow the Schedule A instructions and the instructions for Form 8609 to claim any credits.*

Line 5. If the agency has made an allocation on Form 8609, enter on line 5 the credit percentage shown on Form 8609, Part I, line 2. This percentage must be shown on line 5 as a decimal carried out to at least four places (e.g., 9.12% would be shown on line 5 as .0912).

Note: *If you were allocated a 70% present value credit percentage for a building that was not federally subsidized and the building later receives a Federal subsidy, your credit percentage is reduced to the 30% present value credit that was in effect during the month the building was placed in service or for the month elected under section 42(b)(2)(A)(ii), whichever applies. The 30% present value credit applies to the building for the year the Federal subsidy was received and for the remainder of the compliance period, whether or not the Federal subsidy is repaid. See section 42(i)(2).*

Line 6. If you owned the building, or had an interest therein, for the entire tax year, multiply line 3 by line 5. If you had no ownership interest in the building for a portion of the tax year, multiply line 4 by line 5.

Lines 7 Through 12

If you are **not** claiming a credit for additions to qualified basis on line 7, skip lines 7 through 12 and go to line 13.

CAUTION

You may claim a credit for an addition to qualified basis only if credit amounts have been allocated by the housing credit agency to cover these additions.

Line 7. An addition to qualified basis results when there is an increase in the number of low-income units or an increase in the floor space of the low-income units over that which existed at the close of the first year of the credit period (before application of the modified percentage calculation). Credits for an addition to qualified basis are claimed at the reduced credit percentage of two-thirds of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 through the end of the 15-year compliance period.

If you are claiming a credit for additions to qualified basis, you must subtract the original qualified basis of the building at the close of the first year of the credit period (see Form 8609, line 8a (Part II, line 2a, on the 1988 and 1991 revisions)) from the building's qualified basis entered on line 3 of Schedule A. Enter the result on line 7. If the result is zero or less, skip lines 8 through 12 and enter the credit from line 6 on line 13.

Line 8. Similar to the instructions for line 4, if you disposed of a building or your entire interest therein during the tax year and you posted a bond under section 42(j)(6), your credit for the year is adjusted to reflect the number of months during the tax year that you owned the building or an interest therein. Similarly, if you previously had no interest in the building, but you acquired the building or an interest therein during the tax year, your credit for the year is adjusted to reflect the number of months during the tax year you owned the building or an interest therein.

If the building is owned by a flow-through entity, the entity does not need to make any adjustment on line 8, unless the entity either **(a)** disposes of the building or its entire interest therein or **(b)** acquires the building or an interest therein during the tax year (and the entity previously had no interest in the building). Do not make an adjustment on line 8 for changes in the interests of the members of the flow-through entity during the tax year. Instead, the entity must reflect these changes in the amount of credit it passes through to its members.

If you owned the building, or an interest therein, for the entire tax year, enter zero on line 8 and go to line 9. If you had no ownership interest in the building for a portion of the tax year, multiply the additions to qualified basis on line 7 by a fraction, the numerator of which is the number of months during the tax year you owned the building and the denominator of which is 12. Enter the result on line 8.

Line 9. The credit for additions to the building's qualified basis is determined using two-thirds of the credit percentage allowable for the building's original qualified basis. Therefore, one-third of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 is not allowed. Enter on line 9 one-third of the amount shown on line 5. This amount must be reported on line 9 as a decimal carried out to at least four places (e.g., if the credit percentage entered on line 5 is .0912, one-third of that percentage would be expressed as .0304). See section 42(f)(3).

Line 10. If you owned the building, or had an interest therein, for the entire tax year, multiply line 7 by line 9. If you had no ownership interest in the building for a portion of the tax year, multiply line 8 by line 9.

Line 11. Additions to qualified basis must be adjusted to reflect the average portion of the year that the low-income units relating to the increase were occupied. This adjustment is required if there is an increase in the qualified basis of the building from the previous tax year. To determine this adjustment amount, complete the worksheet on page 4.

Line 14. The eligible basis must be reduced by the amount of any Federal grant for the building or the operation thereof during the 15-year compliance period. If this reduction does not apply, enter zero on line 14. Otherwise, figure the reduction as follows:

1. Divide the total amount of all Federal grants received for the building during the compliance period that did not already reduce the amount of the eligible basis (reported on line 1 of Schedule A) by the eligible basis on line 1 of this Schedule A. Express the result as a decimal carried out to at least four places.

Note: *If the eligible basis on line 1 of this Schedule A was increased by a percentage allowable under section 42(d)(5)(C) (and reflected either in Part I, line 3b, of Form 8609 or in a separate statement issued to you by the housing credit agency), then increase the total amount of all Federal grants in* ***1*** *by this percentage increase and divide this amount by the eligible basis on line 1 of this Schedule A. For example, if the percentage increase is 130% and all Federal grants total $11,000, multiply $11,000 by 1.3000 and divide the result ($14,300) by the eligible basis on line 1.*

2. Multiply the decimal amount determined in **1** by the credit on line 13. Enter this result on line 14.

Line 16. To determine the amount to enter on line 16, you must take into account the applicable rules listed in paragraphs **1, 2, 3,** and the **Special rules** below.

1. If the building is owned completely by one taxpayer, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

2. If the building is owned by more than one taxpayer, and those taxpayers are not members of a flow-through entity, then the line 15 credit (after adjustment for any applicable special rule below) must be distributed according to each taxpayer's respective ownership interest in the building. For example, if a building is owned by individuals A and B (60% by A and 40% by B), each would complete a separate Schedule A as follows. Lines 1 through 15 would be the same for each, assuming no part-year adjustments are necessary. However, A would enter 60% of line 15 on line 16, and B would enter 40% of line 15 on line 16. Therefore, enter on line 16 your share of the line 15 credit for the building that relates to your interest in the building. If your interest increases or decreases during the tax year, the change must be taken into account in determining your share of the line 15 credit.

Note: *The aggregate credit claimed by the owners of the building cannot exceed the line 15 credit amount for the building.*

3. If a flow-through entity is completing Schedule A as the sole owner of the building, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

Special rules. If a taxpayer is subject to recapture because of failure to post a bond upon the disposition of a building or interest therein (see **De minimis recapture rule** below), no credit is allowed to the taxpayer for that percentage of the interest disposed of by the taxpayer. The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer's remaining interest in the building at the close of the tax year. For example, assume that a taxpayer owns 100% of a building for 9 months of the tax year and 40% of the building for the last 3 months of the tax year. (The taxpayer disposed of a 60% interest at the close of the ninth month.) If the taxpayer does not post a bond, the taxpayer's credit on line 16 would be based on 40% of the line 15 credit for the building. Similarly, although a taxpayer might not be subject to recapture upon a disposition of a de minimis portion (explained below) of the taxpayer's interest in the building, no credit is allowed to the taxpayer for the percentage of the interest disposed of by the taxpayer. The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer's remaining interest in the building at the close of the tax year.

If the taxpayer posts a bond upon the disposition of the building or an interest therein, the taxpayer is allowed credit for the year both with respect to the ownership interest disposed of by the taxpayer and the interest retained by the taxpayer. For example, again assume that a taxpayer owns 100% of a building for 9 months of the tax year and 40% of the building for the last 3 months of the tax year. After posting a bond, the taxpayer's credit on line 16 would be based upon 9/12 of 100% (or 75%) of the line 15 credit for the building plus 3/12 of 40% (or 10%) of the line 15 credit amount.

If a taxpayer posts a bond upon the disposition of the building or upon a disposition of the taxpayer's entire interest in the building, the taxpayer's line 16 credit amount is determined by multiplying the line 15 credit amount by the percentage interest in the building disposed of by the taxpayer. For example, if a building is owned by individuals A and B (60% by A and 40% by B) and at the close of the fifth month of the tax year, C buys A's 60% interest in the building and A posts a bond, then A would enter 60% of line 15 on line 16. (Lines 4 and 8 have already taken into account the 5 months of the tax year that A held an interest in the building.)

De minimis recapture rule. For administrative purposes, the Service intends to issue regulations adopting a de minimis rule that applies to partners in partnerships (other than partnerships described in section 42(j)(5)(B)) owning interests in qualified low-income buildings. The rule allows a partner to elect to avoid or defer recapture resulting from a disposition of interest in a partnership without posting bond until the partner has disposed of more than 33⅓% of the partner's greatest total interest in the qualified low-income building through the partnership. See Rev. Rul. 90-60, 1990-2 C.B. 3, for more information on the de minimis rule.

Upon application by the building owner, the IRS may waive any recapture of the low-income housing credit for any de minimis error in complying with the minimum set-aside requirements.

Line 17. Use line 17 to report the following adjustments:

Deferred first-year credit. The first-year credit may have been reduced based on the number of full months the building was

in service. The deferred balance of the credit for the first year is allowed in the 11th year. Include it on line 17 as a **positive** amount.

For example, see the example under **First-year modified percentage** on page 2. If this is the 11th year, enter .8750 times the eligible basis of the building (line 1) times the low-income portion (line 2) times the credit percentage (line 5). The factor .8750 is 1.0000 minus .1250, the modified percentage figured for year one in the example.

Reduction for one-time election to accelerate credit. The Revenue Reconciliation Act of 1990 allowed qualifying taxpayers to make a one-time election to accelerate their credit for the first tax year ending after October 24, 1990. If this election was made, you must reduce each later year's allowable credit for property on which the increased credit was claimed by that year's pro rata share of the increased credit. To find the pro rata reduction share, divide the amount on line 17 of the January 1991 revision of Schedule A (Form 8609) by the number of allowable credit years after the election year. This pro rata reduction amount will be the same for each credit year after the election year. Include it on line 17 as a **negative** amount.

For example, assume a taxpayer elected to claim an accelerated credit of $90 for the 1990 tax year. If the property is eligible for 9 years of credit after the election year, the allowable credit in each of the remaining 9 years is reduced by $10 ($90 divided by 9). In this example, the taxpayer (or its successor) would report ($10) on line 17 for each of the 9 tax years after the election year.

Line 18. If you are a qualifying partnership or S corporation that elected the accelerated credit for the first tax year ending after October 24, 1990, enter the line 18 amount in Part I of Form 8586 and separately allocate the line 18 amount to partners and shareholders as follows:

1. The regular 100% credit portion is allocated to nonqualifying partners.

2. The reduced credit portion (i.e., 100% credit less the line 17 pro rata reduction amount) is allocated to qualifying partners and all shareholders (see **Note** below regarding treatment of the reduced credit for nonqualifying shareholders).

Note: *Although the increased credit was figured for all shareholders of a qualifying S corporation, shareholders who were nonqualifying shareholders were not permitted to claim on their tax returns their share of the increased credit. Instead, each nonqualifying shareholder's share of the increased credit is maintained in a suspense account and only the regular 100% credit is distributed to the nonqualifying shareholders on Schedule K-1 (Form 1120S). In tax years after the election year, the suspended credit is used to offset the nonqualifying shareholder's share of the pro rata reduction in the credit (line 17 of Schedule A). See Section 7 of Rev. Proc. 91-7, 1991-1 C.B. 416.*

Line 11 Worksheet *(Keep for Your Records)*

1	Enter the qualified basis of the building from line 3 of the previous tax year's Schedule A . .	**1**	
	Note: *If the amount entered on line 1 is greater than zero, skip line 2 and go to line 3.*		
2	If the amount entered on line 1 was zero as a result of an imputed qualified basis of zero due to, for example, violation of the minimum set-aside requirement or the deep-rent-skewed test, enter what would otherwise have been the qualified basis of the building (i.e., the amount that would have been entered for the building on line 3 of the previous tax year's Schedule A). This amount may be determined by multiplying the amount on line 1 of the previous year's Schedule A by the amount on line 2 of the previous year's Schedule A	**2**	
3	Increased qualified basis. Subtract the greater of the amount entered on line 1 or line 2 of this worksheet from the qualified basis entered on line 3 of this Schedule A. If the amount entered on line 1 or line 2 of this worksheet is greater than zero but less than the original qualified basis of the building entered on Form 8609, line 8a (Part II, line 2a, on the 1988 and 1991 revisions), then enter on line 3 of this worksheet the amount from line 7 of this Schedule A	**3**	
	Note: *If line 3 of this worksheet is zero or less, do not complete the worksheet. Instead, enter zero on line 11 of Schedule A and go to line 12.*		
4	Modified percentage. This is similar to the **First-year modified percentage** instructions for line 2, Schedule A. For each month during the tax year in which there was an **increase** in the low-income portion of the building, take the low-income portion of the building and subtract the low-income portion of the building at the close of the previous tax year (the amount on line 2 of the previous tax year's Schedule A). For example, if the previous tax year's low-income portion of .5000 increased to .7500 for the months of October, November, and December of this tax year, then subtract .5000 from .7500 to get an increase of .2500 for each month of October through December. Add these amounts together, divide by 12, and enter this amount. (This amount must be shown as a decimal carried out to at least four places (e.g., .2500 + .2500 + .2500 = .7500, divided by 12 = .0625.))	**4**	
5	Increased qualified basis entitled to reduced credit. Multiply line 1 of Schedule A by line 4 of this worksheet	**5**	
6	Increased qualified basis not entitled to reduced credit. Subtract line 5 above from line 3 above	**6**	
7	Schedule A, line 11 modification. Multiply the amount on line 6 of this worksheet by two-thirds of the amount on line 5 of Schedule A. Enter this amount on line 11 of Schedule A	**7**	

Form **8611**

(Rev. January 1999)

Department of the Treasury
Internal Revenue Service

Recapture of Low-Income Housing Credit

► **Attach to your return.**

Note: ***Complete a separate Form 8611 for each building to which recapture applies.***

OMB No. 1545-1035

Attachment Sequence No. **90**

A Name(s) shown on return		**B** **Identifying number**
C Address of building (as shown on Form 8609)	**D** Building identification number (BIN)	**E** Date placed in service (from Form 8609)
F If building is financed in whole or part with tax-exempt bonds, see instructions and furnish:		
(1) Issuer's name		**(2)** Date of issue
(3) Name of issue		**(4)** CUSIP number

Note: *If recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust), skip lines 1 – 7 and go to line 8.*

1	Enter total credits reported on Form 8586 in prior years for this building	**1**	
2	Credits included on line 1 attributable to additions to qualified basis (see instructions)	**2**	
3	Credits subject to recapture. Subtract line 2 from line 1	**3**	
4	Credit recapture percentage (see instructions)	**4**	.
5	Accelerated portion of credit. Multiply line 3 by line 4	**5**	
6	Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions)	**6**	.
7	Amount of accelerated portion recaptured. Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 13. All other flow-through entities (except electing large partnerships), enter the result here and enter each recipient's share on the appropriate line of Schedule K-1. Generally, flow-through entities other than electing large partnerships will stop here. (**Note:** *An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.)*	**7**	
8	Enter recapture amount from flow-through entity	**8**	
9	Enter accelerated portion of the unused credit attributable to this building (see instructions)	**9**	
10	Net recapture. Subtract line 9 from line 7 or line 8. If less than zero, enter -0-	**10**	
11	Enter interest on the line 10 recapture amount (see instructions)	**11**	
12	Total recapture. Add lines 10 and 11. Enter here and on the appropriate line of your tax return. If more than one Form 8611 is filed, add the line 12 amounts from all forms and enter the total on the appropriate line of your return. Electing large partnerships, see instructions	**12**	

Only Section 42(j)(5) partnerships need to complete lines 13 and 14.

13	Enter interest on the line 7 recapture amount (see instructions)	**13**	
14	Total recapture. Add lines 7 and 13 (see instructions)	**14**	

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Use this form if you must recapture part of the low-income housing credit you took in previous years because:

- The qualified basis of a building decreased from one year to the next, or
- You disposed of the building or an ownership interest in it, and you did not post a satisfactory bond or pledge eligible U.S. Treasury securities as collateral. For details on how to avoid recapture on a building disposition, see section 42(j)(6); **Form 8693,** Low-Income Housing Credit Disposition Bond; and Rev. Proc. 99-11, 1999-2 I.R.B. 14.

Note: *If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years under section 42(k) before you calculate the recapture amount on this form.*

To complete this form you will need copies of the following forms that you have filed: **Form 8586**, Low-Income Housing Credit (and **Form 3800,** General Business Credit, if applicable); **Form 8609**, Low-Income Housing Credit Allocation Certification; **Schedule A (Form 8609),** Annual Statement; and Form 8611.

Note: *Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in items C, D, E, and F of Form 8611.*

Generally, recapture applies if:

- You dispose of a building or an ownership interest in it;
- There is a decrease in the qualified basis of the building from one year to the next; or
- The building no longer meets the minimum set-aside requirements of section 42(g)(1), the gross rent requirement of section 42(g)(2), or the other requirements for the units which are set aside.

However, recapture **does not** apply if:

- You disposed of the building or an ownership interest in it and you posted a satisfactory bond or pledged eligible U.S. Treasury securities as collateral (for details, see section 42(j)(6); Form 8693; and Rev. Proc. 99-11);
- You disposed of an ownership interest in a building that you held through an electing large partnership;
- The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service;
- You correct a noncompliance event within a reasonable period after it is discovered or should have been discovered;
- The credit did not reduce your tax liability (but you must adjust the allowable general business credit carryback and carryforward); or
- The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

Recordkeeping Requirements

To verify changes in qualified basis from year to year, you must keep, for 3 years after the 15-year compliance period ends, a copy of all Forms 8586, 8609, Schedule A (Form 8609), 8611, and 8693.

Specific Instructions

Note: *If recapture is passed through from a flow-through entity (partnership, S corporation, estate or trust), skip lines 1–7 and go to line 8.*

Item F. If the building is financed with tax-exempt bonds, furnish the following information: **(1)** name of the entity that issued the bond (not the name of the entity receiving the benefit of the financing); **(2)** date of issue, generally the first date there is a physical exchange of the bonds for the purchase price; **(3)** name of the issue, or if not named, other identification of the issue; and **(4)** CUSIP number of the bond with the latest maturity date. If the issue does not have a CUSIP number, enter "None."

Line 1. Enter the total credits claimed on the building for all prior years from Part I, Form 8586 (before reduction due to the tax liability limit). No credit may be claimed in the year of recapture. See Part I of Form(s) 8586 you have filed. **Do not** include credits taken by a previous owner.

Line 2. Determine the amount to enter on this line by completing a separate **Line 2 Worksheet** (below) for each prior year for which line 7 of Schedule A (Form 8609) was completed.

Line 4. Enter the credit recapture percentage, expressed as a decimal carried to at least 3 places, from the table below:

IF the recapture event occurs in . . .	THEN enter on line 4 . . .
Years 2 through 11	.333
Year 12	.267
Year 13	.200
Year 14	.133
Year 15	.067

Line 6. Enter the percentage decrease in qualified basis from the close of the previous year to the close of the current year.

For this purpose, figure qualified basis without regard to any additions to qualified basis after the first year of the credit period. Compare any decrease in qualified basis first to additions to qualified basis. Recapture applies only if the decrease in qualified basis exceeds additions to qualified basis after the first year of the credit period.

If you disposed of the building or an ownership interest in it and did not post a bond, you must recapture all of the accelerated portion shown on line 5. Enter 1.000 on line 6.

Note: *If the decrease causes the qualified basis to fall below the minimum set-aside requirements of section 42(g)(1) (the 20-50 test or the 40-60 test), then 100% of the amount shown on line 5 must be recaptured. Enter 1.000 on line 6. If you elected the 40-60 test for this building and the decrease causes you to fall below 40%, you* ***cannot*** *switch to the 20-50 test to meet the set-aside requirements. You must recapture the entire amount shown on line 5.*

Line 9. Multiply the unused credits attributable to this building by the decimal amount on line 4 and enter the result on line 9. Reduce the amount of any unused credit by the amount of recapture before claiming any carryforward of the low-income housing credit on Form 3800. See the separate Instructions for Form 3800 for details on the carryforward of unused credits.

Special rule for electing large partnerships. Enter zero on line 9. An electing large partnership is treated as having fully used all prior year credits.

Line 11. Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest must be computed at the **overpayment rate** determined under section 6621(a)(1) and compounded on a daily basis from the due date (not including extensions) of the return for the prior year until the earlier of **(a)** the due date (not including extensions) of the return for the recapture year, or **(b)** the date the return for the recapture year is filed and any income tax due for that year has been fully paid.

Tables of interest factors to compute daily compound interest were published in Rev. Proc. 95-17, 1995-1 C.B. 556. The annual interest rate in effect and the corresponding page number in 1995-1 C.B. for periods through March 31, 1999, are shown in Rev. Rul. 98–61, 1998–51 I.R.B. 8. For periods after March 31, 1999, use the overpayment rate under section 6621(a)(1) in the revenue rulings published quarterly in the Internal Revenue Bulletin.

Note: *If the line 8 recapture amount is from a section 42(j)(5) partnership, the partnership will figure the interest and include it in the recapture amount reported to you. Enter "-0-" on line 11 and write "Section 42(j)(5)" to the left of the entry space for line 11.*

Line 12. Special rule for electing large partnerships. Subtract the current year credit, if any, shown on Form 8586, line 7, from the total of the line 12 amounts from all Forms 8611. Enter the result (but not less than zero) on Form 1065-B, Part I, line 26.

Note: *You must also reduce the current year low-income housing credit, before entering it on Schedules K and K-1, by the amount of the reduction to the total of the recapture amounts.*

Lines 13 and 14. Only section 42(j)(5) partnerships complete these lines. This is a partnership (other than an electing large partnership) that has at least 35 partners, unless the partnership elects (or has previously elected) not to be treated as a section 42(j)(5) partnership. For purposes of this definition, a husband and wife are treated as one partner.

For purposes of determining the credit recapture amount, a section 42(j)(5) partnership is treated as the taxpayer to which the low-income housing credit was allowed and as if the amount of credit allowed was the entire amount allowable under section 42(a).

See the instructions for line 11 to figure the interest on line 13. The partnership must attach Form 8611 to its Form 1065 and allocate this amount to each partner on Schedule K-1 (Form 1065) in the same manner as the partnership's taxable income is allocated to each partner.

Line 2 Worksheet

a	Enter the amount from line 10, Schedule A (Form 8609)	**a**	
b	Multiply **a** by 2	**b**	
c	Enter the amount from line 11, Schedule A (Form 8609)	**c**	
d	Subtract **c** from **b**	**d**	
e	Enter decimal amount figured in step **1** of the instructions for line 14, Schedule A (Form 8609). If line 14 does not apply to you, enter -0-	**e**	
f	Multiply **d** by **e**	**f**	
g	Subtract **f** from **d**	**g**	
h	Divide line 16, Schedule A (Form 8609) by line 15, Schedule A (Form 8609). Enter the result here	**h**	
i	Multiply **g** by **h**. Enter this amount on line 2. (If more than one worksheet is completed, add the amounts on **i** from all worksheets and enter the total on line 2.)	**i**	

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . . . 6 hr., 56 min.
Learning about the law or the form . . . . . 1 hr., 5 min.
Preparing and sending the form to the IRS . . . 1 hr., 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the IRS at the address listed in the instructions for the tax return with which this form is filed.

Form **8693**
(Rev. February 1997)
Department of the Treasury
Internal Revenue Service

Low-Income Housing Credit Disposition Bond

(For use by taxpayers posting bond under section 42(j)(6))

Attach to your return after receiving IRS approval.

OMB No. 1545–1029

Attachment Sequence No. **91**

Name of taxpayer making disposition | **Identifying number**

Part I Bonding

1 Address of building as shown on Form 8609 (do **not** use P.O. box)

2 Building identification number

3 Date the 15-year compliance period ends

4 Check the box that applies:

This is an ☐ original bond, ☐ strengthening bond, or ☐ superseding bond.

5 Date property interest disposed of

6 Date bond issued

7a Bond is given by _____ ( ) _____
Principal — Telephone number (optional)

_____
Address

as principal and _____
Surety

_____ as surety or sureties.
Address

7b As principal and surety, we are obligated to the United States in the amount of $ _____ . We also jointly and severally obligate our heirs, executors, administrators, successors, and assigns for the payment of this amount.

Part II Signatures

Under penalties of perjury, I declare that I have examined this form and any accompanying statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature of principal	Name (please print)	Date
Signature of principal	Name (please print)	Date
Signature of surety	Name and identifying number (please print)	Date
Signature of surety	Name and identifying number (please print)	Date

Part III Certificate of Corporate Principal (corporations only)

I certify that the person above, who signed on behalf of the principal, was an authorized representative of the corporation.

Signature of secretary of the corporation	Name (please print)	Date

Part IV Approval by IRS (See instructions.)

Bond approved _____ _____
Date — Internal Revenue Service official

General Instructions

Section references are to the Internal Revenue Code.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . . . 13 min.

Learning about the law or the form . . . . . 14 min.

Preparing, copying, assembling, and sending the form to the IRS. . . . . 40 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send Form 8693 to this address. Instead, see **When and Where To File** on page 2.

Purpose of Form

Use Form 8693 to post a bond under section 42(j)(6) to avoid recapture of the low-income housing credit.

The bond ensures payment of the recapture tax imposed under section 42(j). The conditions of the bond are that the principal (i.e., taxpayer):

- Does not attempt to defraud the United States of any tax under section 42(j);
- Files all returns and statements as required by law or regulations;
- Pays all taxes including any penalties and interest charges; and
- Complies with all other requirements of the law and regulations under section 42.

Qualifying Sureties

The company acting as surety must hold a Certificate of Authority from the Department of the Treasury, Financial Management Service. These companies are listed in Treasury Circular 570. You may get a copy of this circular by writing to the Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Hwy., Hyattsville, MD 20782, or by calling (202) 874-6850 (not a toll-free number).

A taxpayer may not be a surety for itself, nor may a member of a firm or a partner in a partnership be a surety for the firm or partnership of which he or she is a member or a partner.

Surety Termination

If a surety's certificate of authority is terminated, the surety may be relieved of liability under the bond provided it notifies the principal and the IRS by the date the termination announcement is published in the Federal Register. The notice must be sent by certified mail and must state that the principal has 60 days from the date the termination announcement is published in the Federal Register to get an adequate strengthening or superseding bond with another surety listed in Treasury Circular 570. If notice is given, the principal's rights under the bond will end 60 days after the date the termination announcement is published in the Federal Register.

A qualified surety (or coinsuring surety) may terminate its liability on a bond only if the surety notifies the principal and the IRS at least 60 days before the date the surety wants to terminate its liability. The notice must state that the principal has 60 days from the termination date to obtain an adequate superseding or strengthening bond from another qualified surety (or coinsuring surety).

If the surety does not provide this notice, it remains liable for the amount posted on the bond. If the surety gives notice but does not meet the 60-day notification requirement or fails to include a termination date in the notice, the surety's liability will terminate 60 days after the postmark date on the notice.

Send the IRS copy of the notice to the Internal Revenue Service Center, Philadelphia, PA 19255.

If the principal fails to post a strengthening or superseding bond within 60 days from the date **(a)** the termination announcement is published in the Federal Register or **(b)** on which a surety's liability on a bond terminates, recapture under section 42(j) is required.

Period of Bond

The liability stated on the bond must be for the period of years remaining in the 15-year compliance period of the building plus an additional 58 months. The compliance period begins with the tax year the building was placed in service or the succeeding tax year if the election under section 42(f)(1) is made.

Recordkeeping

Keep a copy of this Form 8693 together with all Forms 8586, 8609, Schedule(s) A (Form 8609), and 8611 for 58 months after the 15-year compliance period ends.

Who Must File

Taxpayers who claimed a low-income housing credit on a residential rental building and later (in a tax year during the 15-year compliance period) disposed of the building or an ownership interest in it must file this form to avoid recapture of the credit claimed. A de minimis rule may apply to certain dispositions of interests in partnerships that own buildings in which a credit was claimed. See Rev. Rul. 90-60, 1990-2 C.B. 3, for additional information.

Partnerships

Section 42(j)(5) partnerships.—Any person holding a power of attorney in a section 42(j)(5) partnership (a partnership with 35 or more partners that has not elected out of the section 42(j)(5) provisions) may post bond as principal on behalf of the partnership. A bond posted on behalf of a partnership must be posted in the partnership's name, with the name of the authorized representative of the partnership posting the bond appearing immediately below the partnership's name.

Partnerships that elected out of the section 42(j)(5) provisions or have fewer than 35 partners.—If partners in partnerships to which section 42(j)(5) does not apply want to post bond, the partners must post bond in their individual capacity as principals.

When and Where To File

Submit the original and one copy of Form 8693 to the Internal Revenue Service Center, Philadelphia, PA 19255, within 60 days after the date of disposition of the building or interest therein. The completed form may be submitted by either the taxpayer or the surety.

When the IRS returns a copy of the approved form, attach a copy of it to your income tax return for the year in which the disposition occurred. Write "FORM 8693 ATTACHED" to the left of the entry space on your income tax return for reporting the recapture of the low-income housing credit.

Specific Instructions

Line 2. Building Identification Number (BIN).—This is the number assigned to the building by the housing credit agency on Part I, item E, of **Form 8609,** Low-Income Housing Credit Allocation Certification.

Line 7b. Amount of Bond.—Use the worksheet below to calculate the bond amount. See Rev. Rul. 90-60 for additional information on the methodology for determining the bond amount.

If the amount is not an even multiple of $100, increase the bond amount to the next higher multiple of $100.

Part III. Certificate of Corporate Principal.—If the principal is a corporation, the authority of the person posting the bond must be certified by the secretary of the corporation by completing Part III. Or the corporation may attach copies of records that will show the authority of the officer signing if the copies are certified by the secretary to be true copies.

Part IV. Approval by the IRS.—The IRS will notify you of the approval or rejection of the bond. If approved, the IRS will send a copy of the approved Form 8693 to the principal shown in Part I. If rejected, the owner must recapture the allowed low-income housing credit. Use **Form 8611,** Recapture of Low-Income Housing Credit.

Worksheet for Computing Bond Amount

1	Total credits taken by you in previous years and any additional credits you anticipate claiming for any year or portion thereof preceding the date of disposition	$
2	Bond factor amount	%
3	Percentage of taxpayer's total interest in the qualified low-income building disposed of	%
4	Bond amount required to be posted (line 1 × line 2 × line 3). Enter here and on line 7b	$

Instructions for Worksheet

Line 1.—Enter the total amount of the credits claimed on the building. See Part I of Forms 8586 you have filed. Include any additional credits you anticipate claiming for any period preceding the date of disposition. Do not include credit amounts previously recaptured, credit amounts for which a bond was previously posted, or credits claimed on additions to qualified basis as determined under section 42(f)(3).

Line 2. Bond Factor Amount.—Enter the bond factor amount corresponding to the month in the compliance period in which the disposition occurred and the first year of the building's credit period. The IRS announces the monthly bond factor amounts quarterly in a revenue ruling published in the Internal Revenue Bulletin.

Line 3.—Enter the ownership interest in the qualified low-income building that you have disposed of. Include ownership interests held both directly and indirectly (e.g., through a partnership).

Form **8823**
(Rev. January 1999)
Department of the Treasury
Internal Revenue Service

Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

Note: *File a separate Form 8823 for each building that is disposed of or goes out of compliance.*

OMB No. 1545-1204

1 Building name (if any). Check if item 1 differs from Form 8609 ▶ ☐

Street address

City or town, state, and ZIP code

2 Owner's name. Check if item 2 differs from Form 8609 ▶ ☐

Continuation

Street address

City or town, state, and ZIP code

3 Building identification number (BIN)

4 **Owner's** taxpayer identification number ☐ EIN ☐ SSN

5 If this building is part of a multiple building project, enter the number of buildings in the project . . . ▶

6a Total number of residential rental units in this building . . . ▶

b Total number of low-income units in this building . . . ▶

c Total number of residential units in this building determined to have noncompliance issues . . . ▶

d Total number of units reviewed by agency (see instructions) . . . ▶

7 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY) .

8 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY) . . .

9 Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . ▶ ☐

10 Check the box(es) that apply:

		Out of compliance	Noncompliance corrected
a	Household income above income limit upon initial occupancy	☐	☐
b	Major violations of health, safety, and building codes (see instructions)	☐	☐
c	Pattern of minor violations of health, safety, and building codes (see instructions)	☐	☐
d	Owner failed to submit annual certification	☐	☐
e	Changes in eligible basis (see instructions)	☐	☐
f	Project failed to meet minimum set-aside requirement (20/50, 40/60 test) (see instructions)	☐	☐
g	Gross rent(s) exceed tax credit limits	☐	☐
h	Project not available to the general public (see instructions)	☐	☐
i	Household income increased above income limit and an available unit was rented to market rate tenant	☐	
j	Project is no longer in compliance and is no longer participating in the low-income housing tax credit program	☐	
k	Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	☐	☐
l	Low-income units occupied by nonqualified full-time students	☐	☐
m	Owner failed to maintain or provide tenant income certification and documentation	☐	☐
n	Owner did not properly calculate utility allowance	☐	☐
o	Owner has failed to respond to agency requests for monitoring reviews and fees	☐	☐
p	Low-income units used on a transient basis	☐	☐
q	Other noncompliance issues (attach explanation)	☐	☐

11 Additional information for any item above. Attach explanation and check here . . . ▶ ☐

12 Building disposition

a Building disposed of by: ☐ Sale ☐ Foreclosure ☐ Abandonment ☐ Destruction ☐ Other (attach explanation)

b New owner's name and address:

Name

Continuation

Street address

City or town, state, and ZIP code

c Date of building disposition (MMDDYYYY)

d **New owner's** taxpayer identification number ☐ EIN ☐ SSN

13 State housing agency employer identification number

14 Name and telephone number of contact person

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

▶ Signature of authorizing official ▶ Print name and title ▶ Date

For Paperwork Reduction Act Notice, see back of form.

Cat. No. 12308D Form **8823** (Rev. 1-99)

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Housing credit agencies use Form 8823 to fulfill their responsibility under section 42(m)(1)(B)(iii) to notify the IRS of noncompliance with the low-income housing tax credit provisions **or** any building disposition.

File a separate form for each building that was disposed of or goes out of compliance.

Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building was disposed of or is not in compliance with the provisions of section 42 must file Form 8823.

When To File

File Form 8823 no later than 45 days after **(a)** the building was disposed of or **(b)** the end of the time allowed the building owner to correct the condition(s) that caused noncompliance. For details, see Regulations section 1.42-5(e).

Where To File

File Form 8823 with the Internal Revenue Service Center, Philadelphia, PA 19255.

Specific Instructions

Items 2, 4, 12b, and 12d

If there is more than one owner (other than as a member of a flow-through entity), attach a schedule listing the owners, their addresses, and their taxpayer identification numbers. Indicate whether each owner's taxpayer identification number is an employer identification number (EIN) or a social security number (SSN).

Both the EIN and the SSN have nine digits. An EIN has two digits, a hyphen, and seven digits. An SSN has three digits, a hyphen, two digits, a hyphen, and four digits and is issued only to individuals.

Item 3

Enter the building identification number (BIN) assigned to the building by the housing credit agency as shown on Form 8609.

Item 6d

"Reviewed by agency" includes physical inspection of the property, tenant file inspection, or review of documentation submitted by the owner.

Item 7

Enter the date that the building ceased to comply with the low-income housing credit provisions. If there are multiple noncompliance issues, enter the earliest date that any issue was discovered. **Do not** complete item 7 for a building disposition. Instead, skip items 8 through 11, and complete item 12.

Item 8

Enter the date that the noncompliance issue was corrected. If there are multiple issues, enter the date the last correction was made.

Item 9

Do not check this box until **all** previously reported noncompliance issues have been corrected.

Item 10b

Examples of major violations of health, safety, and building codes include:

- Structural and roof problems.
- Blockage of fire exits.
- Elevators functioning improperly.
- Smoke detectors or sprinklers not functioning.
- Pest infestation.
- Serious electrical, heating, or plumbing problems.
- Common area safety lighting problems.

Item 10c

Report a pattern of minor health, safety, and building code violations in housing units. Minor violations are those that require correction but do not impair essential services and safeguards for tenants.

Item 10e

Changes in eligible basis occur when common areas become commercial, fees are charged for facilities, etc.

Item 10f

Failure to satisfy the minimum set-aside requirement in the first year of the credit period results in the permanent loss of the entire credit.

Failure to maintain the minimum set-aside requirement in any year after the first year of the credit period results in recapture of previously claimed credit and no future credit can be claimed. However, an owner who can again satisfy the minimum set-aside requirement may resume claiming credit after that date.

Item 10h

Low-income housing credit properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. It prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C. sections 3601 through 3619.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of low-income housing credit properties to comply with the requirements of the Fair Housing Act will result in the denial of the low-income housing tax credit on a per-unit basis.

The Department of Housing and Urban Development (HUD) enforces the Fair Housing Act. Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual from HUD by calling 1-800-343-3442.

Item 10q

Check this box for violations other than those listed in 10a through 10p. Attach an explanation.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping . . . . 7 hr., 39 min.

Learning about the law or the form . . . . . 30 min.

Preparing and sending the form to the IRS. . . . . 39 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send Form 8823 to this address. Instead, see **Where To File** above.

Appendix C

2001 Qualified Allocation Plan

2001 Qualified Allocation Plan

Rental Housing Tax Credits (RHTC) ● Multifamily Private Activity Tax-exempt Bonds ● 501(c)3 Bonds
HOME in Conjunction with RHTC ● Low Income Housing Trust Fund in Conjunction with RHTC

Indiana Housing Finance Authority
Lt. Gov. Joe Kernan, Chairman
Kimberly A. Green, Executive Director
115 West Washington Street, Suite 1350, South Tower ● Indianapolis, IN 46204-3413
Telephone: (317) 232-7777 ● Toll Free in Indiana: (800) 872-0371 ● Facsimile: (317) 232-7778
World Wide Web: http://www.state.in.us/ihfa

INDIANA HOUSING IHFA FINANCE AUTHORITY

December 6, 2000

Dear Potential Applicant:

Thank you for your interest in the Indiana Housing Finance Authority's Rental Housing Tax Credit ("RHTC") program. Enclosed is the Qualified Application Plan and Application (QAP") for the year 2001. The IHFA staff spent many months refining, reconsidering, and revising this package. They took into consideration such things as comments from past applicants, observations of common mistakes made on applications received in 2000, and feedback gathered both through the mail and at the public hearing. We appreciate the input that our partners provided in this effort. We hope these revisions make it easier for potential applicants to apply for RHTC's.

The purpose of the Rental Housing Tax Credit program is to provide funding for affordable rental housing in the State of Indiana. Applicants are encouraged to use this resource effectively, efficiently, expeditiously and in compliance with Section 42 of the Internal Revenue Code as well as the QAP. In particular, our scoring criteria evaluates applications based on:

- the constituency served by the development,
- development characteristics,
- development financing,
- development market, and
- other criteria beneficial to the development of affordable housing.

We look forward to working with you and your organization to create decent, safe, and affordable housing for the residents of Indiana.

Sincerely,

Kimberly A. Green

Kimberly A. Green
Executive Director

115 WEST WASHINGTON STREET, SUITE 1350 SOUTH TOWER, INDIANAPOLIS, INDIANA 46204-3413
TELEPHONE: (317) 232-7777 • TOLL-FREE WITHIN INDIANA: (800) 872-0371 • FACSIMILE: (317) 232-7778
WORLD WIDE WEB: HTTP://WWW.AI.ORG/IHFA • EQUAL OPPORTUNITY EMPLOYER AND HOUSING AGENCY
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2001Qualified Allocation Plan ("Allocation Plan") for the State Of Indiana

This "Allocation Plan" constitutes the "qualified allocation plan" of the State of Indiana (the "State"), and is intended to comply with, the requirements set forth in Section 42 of the Internal Revenue Code of 1986, as amended, including all applicable rules and regulations promulgated there under (collectively, the "Code"). As used herein, "Applicant" shall include any owner, principal and participant, including any affiliates. This Allocation Plan applies to all allocations of rental housing tax credits (RHTCs) pursuant to Section 42 of the Code, multifamily private activity tax-exempt bond ("Bonds"), 501 (c) 3 Bonds, HOME Investment Partnership funds ("HOME"), and the Low Income Housing Trust Fund ("LIHTF") in conjunction with RHTC's (collectively "Rental Housing Financing") made in calendar year 2001 and sets forth: (1) the role of the Indiana Housing Finance Authority ("Authority") in administering the RHTC and Bond programs; (2) a description of how the Authority has assessed the housing needs in the State and how such needs should be adequately addressed; (3) housing goals of the Authority, based on the perceived needs throughout the State; (4) "set aside" categories established by the Authority pursuant to the Code and Indiana law to further the accomplishment of the State's housing goals; (5) minimum requirements which all Applicants and housing Developments must satisfy in order to be considered by the Authority for rental housing financing; and (6) evaluation factors which the Authority will follow in analyzing each application that satisfies all applicable minimum requirements.

AMENDED

A. Role of Authority

The Authority is empowered to act as the housing credit agency for the State and to administer, operate and manage the allocation of RHTCs also known as the Low-Income Housing Tax Credit program pursuant to Section 42 of the Code and this Allocation Plan.

The actions, determinations, decisions or other rulings made by the Authority pursuant to this Allocation Plan shall not be construed to be a representation or warranty by the Authority as to a Development's compliance with applicable legal requirements, the feasibility or viability of any Development or of any other matter whatsoever, and no action of the Authority shall be relied upon by any person as a representation or warranty by the Authority in connection therewith.

The Authority reserves the right to resolve all conflicts, inconsistencies or ambiguities, if any, in this Allocation Plan or which may arise in administering, operating or managing the allocation of Bonds or Indiana's Rental Housing Tax Credit Program (the "Program"). The Authority in its sole discretion reserves the right to, and may from time to time, amend this Allocation Plan, pursuant to the Code, for any reason including to assure compliance with applicable federal, State or local law and regulations there under which may be amended and/or enacted and promulgated, from time to time and/or to terminate the Program.

The selection criteria set forth in this Allocation Plan includes in part consideration of: (1) Development location; (2) housing needs characteristics; (3) Development characteristics; including whether the development includes the use of existing housing as part of a community revitalization plan, (4) sponsor characteristics; (5) tenant population with special housing needs, (6) the existence of a public housing waiting list, (7) tenant populations of individuals with children, and (8) developments intended for eventual tenant ownership**.**

This Allocation Plan:

1. Has been established by the Authority utilizing the selection criteria required by the Code in determining housing priorities of the Authority, which are appropriate to local conditions;

2. Gives preference in allocating RHTC among selected Developments which:

   a. Serve the lowest income tenants and will set-aside at least 35% of its total units for tenants at or below 30% of area median income ***and*** area median rent levels, and provide documentation that it has the financial and supportive capacity, in the opinion of the Authority, to make the Development financially viable for the compliance period;

   b. Are obligated to serve qualified tenants for the longest period;

   c. Are willing to give priority to households on public housing waiting lists who apply for occupancy. (Include a written commitment from the Owner informing the PHA of vacancies and the priority listing);

   d. Minimize displacement of existing tenants;

   e. Are located in qualified census tracts (as designated by the Secretary of the Department of Housing and Urban Development (HUD)) and the development of which contributes to a concerted community revitalization plan;

   f. Significantly upgrades and preserves existing low income housing and is a part of a published community revitalization plan;

   g. Are obligated to serve tenant populations with special housing needs.

3. Provides procedures that the Authority (or an agent or other private contractor of the Authority) will follow in monitoring for noncompliance with the provisions of the Code and in notifying the Internal Revenue Service of such noncompliance when the Authority becomes aware of and in monitoring for noncompliance with habitability standards through regular site visits.

AMENDED

B. Housing Needs Assessment

The Authority has utilized various sources of information available to it in assessing the State's low-income rental housing needs. The Authority has identified three principal demographic areas in the State: (1) "Urban Areas"-consisting of counties which include one or more of the State's largest populated cities; (2) "Small City Areas"-consisting of counties which include one or more cities with a population of 10,000 or more, but not one of the largest populated cities in the State; and (3) "Rural Areas"-consisting of all other counties. The Authority has determined that the following housing needs and conditions should be addressed in this Allocation Plan:

1. Rental housing conditions related to lack of essential facilities, overcrowding and disproportionate costs exist across the State, although needs in Urban Areas exceed those in Small City and Rural Areas.

2. There is an inadequate supply of affordable housing units for single-parent families, low-income persons generally and for low-income elderly, persons with disabilities and families needing three -bedrooms units or more

3. A need exists to provide transitional housing for homeless families with children, the homeless mentally ill and other homeless groups while they receive training and support services necessary to make the transition to independent living.

C. Housing Goals

After considering the housing needs identified, the Authority has established certain housing priorities for the allocation of RHTCs to better enable the Authority to achieve its housing goals. In connection therewith, the Authority seeks to encourage and promote:

1. Developments which will require an allocation of RHTCs for the acquisition (if applicable), Development and/or rehabilitation of such Development to become a reality.

2. Developments which will be feasible, financially and otherwise, and viable as a qualified low-income housing Development throughout the compliance period and of quality design.

3. Distribution of RHTCs among Urban Areas, Small City Areas and Rural Areas, while emphasizing those areas identified as having greater housing needs.

4. Rehabilitation which significantly upgrades and preserves existing low-income housing and is part of a published community revitalization plan. All acquisition/rehabilitation Developments requesting Rental Housing Financing must submit with their Multi-Family Housing Finance Application a fair market appraisal and a capital needs assessment in the format required by the Authority. (See Appendix J - Capital Needs Assessment and Schedule F – Market Study and Fair Market Appraisal Requirements).

5. Developments, which meet special, needs in a community or area such as transitional housing for the homeless, larger families, or specially equipped Developments for the elderly and disabled including mixed income.

6. Developments, which provide housing for the lowest income households possible and provide **optional** supportive services.

7. Developments, which serve low-income tenants for the longest period.

8. The Authority strongly encourages the use of Indiana products and labor.

AMENDED

D. Set-Aside Categories

The Authority believes it can best achieve its housing goals by establishing five (5) set-aside categories based on: (i) Development by qualified not-for-profit organizations; (ii) special housing needs, (iii) Development location, (iv) Preservation and (v) Developments which serve the lowest income. More than one (1) set-aside category may be addressed by a Development, depending upon the location, characteristics and whether the owner is a qualified not-for-profit organization. Note: There are no set-aside categories for Bond financed Developments.

The set-aside categories, their respective requirements and amount of the annual RHTCs allocated to each are as follows:

1. **Qualified Not-for-profit**
   a. 16.6% of available annual RHTCs will be set aside for Developments in which "qualified not-for-profit organizations" have the requisite ownership and material participation, as such terms are defined in and pursuant to Section 42 of the Code and this Allocation Plan. Refer to Section E (1) c Not-for-profit Organization Requirements.

2. Special Housing Needs

a. 8.3% of available annual RHTCs will be set aside for units that provide residential housing for persons with a disability, pursuant to *Indiana Code ("IC") 5-20-1-4.5*, which defines disabled as a "person with a disability who, by reason of physical, mental, or emotional defect or infirmity, whether congenital or acquired by accident, injury, or disease, is totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living." "The Authority shall allocate RHTCs under this section based on the proportionate amount of a qualified building that is used to provide residential housing for persons with disabilities as determined by the Authority.

b. 8.3% of available annual RHTCs will be set aside for Developments specifically designed for use by elderly tenants. Elderly is defined, for the purpose of this Allocation Plan, as those persons 55 years of age or older on or before the date of initial occupancy. No less than eighty (80%) of the housing units are restricted for and solely occupied by at least one resident in each unit who is 55 years of age or older.

3. Development Location

a. 20.8% of available annual RHTCs will be set aside for Developments located within the zoning jurisdiction of a city with a population of 25,000 or more ("Large Cities"). (See Schedule A).

b. 8.3% of available annual RHTCs will be set aside for Developments located within the zoning jurisdiction of a city with a population of 10,000-24,999 ("Small Cities"). (See Schedule B).

c. 12.5% of available annual RHTCs will be set aside for Developments located in the counties designated as "rural" counties**,** with a population of 9,999 or less.

4. Preservation

a. 8.3% of available annual RHTCs will be set aside for Developments which involve rehabilitation of currently occupied low income housing and/or a Development otherwise in danger of being lost as affordable housing. This includes developments being removed by a federal agency (i.e. HUD, Rural Housing Service (RHS)), and the conversion of existing market rate housing to affordable housing. Rehabilitation cost must be in excess of $5,000 per unit.

5. Lowest Income

a. 8.3% of available annual RHTCs will be set aside for Developments, which restrict all of its units at or below 30% of the area median income.

The Authority intends to make every effort to satisfy the requirements of such set-aside categories in two (2) application and reservation cycles each calendar year. If such set-aside categories are not completed through two (2) application and reservation cycles for the applicable year, the Authority may allocate any RHTCs remaining available for allocation without regard to these set aside categories, so long as such allocation is made in accordance with the Code and the applicable requirements of the law of the State and the goals of this Allocation Plan; provided, however, that: (i) the Authority shall hold available the allocation to the set aside category for persons with a disability through October 31 of each calendar year and beginning November 1 of each such calendar year, any part of such allocation that remains unassigned shall be available for any other appropriate allocation, and (ii) the Authority may, in its sole discretion, elect in any reservation cycle not to allocate RHTCs to a Development that might otherwise qualify for an allocation of RHTCs set aside under paragraph D.2.b. above for elderly tenants and/or paragraphs D.3.a. and D.3.b. above for Large Cities and Small Cities, respectively, if such Development scores twenty (20) or more points less than

AMENDED

any other Development which has received an allocation of RHTCs in such cycle without regard to such set aside categories.

Notwithstanding the foregoing to the contrary, upon completion of the scheduled reservation cycle (i.e., at such time as all or substantially all RHTCs available for allocation in a calendar year have been allocated, other than *de minimus* amounts of RHTCs not reasonably susceptible to allocation to a Development) the Authority, in its discretion, may either hold another application and reservation cycle or, alternatively, prepare a "waiting list" of Developments which have applied for, but which have not been awarded, RHTCs during the last scheduled cycle. If another application and reservation cycle will be held, the Authority will provide an announcement thereof. If a waiting list is prepared, the Authority shall notify each Applicant on the waiting list and, at the Authority's request, permit the Applicants to submit additional information to support the readiness of the applicable Applicant to proceed with development of the Development and to receive an award of next available RHTCs without undue risk of such RHTCs subsequently being returned to or rescinded by the Authority. Thereafter, if reasonably practicable, the Authority intends to make a final allocation of RHTCs for the applicable calendar year to Developments on the waiting list ranked according to their ability to so proceed.

E. Requirements

Each Development applying for an allocation of RHTCs shall satisfy the requirements of the Code, such additional requirements established by the Authority, the Program and those set forth in this Allocation Plan, and any additional requirements relating to the continued compliance of the Developments after an allocation of RHTCs and/or Bonds by the Authority. All material used in the Development must be new and of high quality, and all work must be performed in a good and workmanlike manner.

1. Federal Requirements

Each Development shall satisfy all requirements of Section 42 of the Code and such additional provisions of the Code and other federal laws applicable to each Development throughout the required compliance period and/or other applicable period. These requirements include, without limitation:

a. Development Feasibility

Amounts allocated pursuant to this Allocation Plan may not exceed an amount, which the Authority determines is necessary for the financial feasibility of a Development and its viability as a qualified low-income housing Development throughout the compliance period. In making this determination, the Authority shall consider: (i) the sources and uses of funds and the total financing planned for the Development; (ii) any proceeds or receipts expected to be generated by reason of tax benefits; (iii) the percentage of the RHTCs used or to be used for Development costs other than the cost of intermediaries, unless such consideration would impede the process of developing in hard-to-develop areas; (iv) the reasonableness of the Developmental and operational costs of the Development; and (v) the Developmental and/or operational costs of the Development as compared to similar costs of other Applicants; (vi) such other factors it may consider applicable.

The Authority may establish such criteria and assumptions it deems reasonable for the purposes of its determination, including, without limitation, criteria as to the reasonableness of fees and profits and assumptions as to projected occupancy, the amount of net syndication proceeds to be received, and increases in operating expenses and rental income. Any determination and/or allocation of RHTCs by the Authority shall not be construed to be a representation or warranty by the Authority as to the feasibility or viability of any Development.

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Pursuant to the Code, the foregoing determination shall be made at: (a) the time of application for the RHTCs; (b) the time of allocation of the RHTC equity amount; and (c) the date the building is placed in service or at time of final application (but prior to the issuance of IRS Form 8609).

b. Local Jurisdiction Notification

No Development shall be entitled to apply for any RHTC reservation or allocation until the highest elected official (or the equivalent) of the local jurisdiction is notified and provided with a reasonable opportunity to comment on the Development. The Authority will consider the response of such official in determining any RHTC allocation for the Development.

c. Qualified Not-for-profit Organization Requirements

A not-for-profit organization shall not constitute a "qualified not-for-profit organization" if the not-for-profit organization is affiliated with or is controlled by a for profit organization. To constitute a qualified not-for-profit organization, throughout the compliance period: (i) one of the not-for-profit organization's exempt purposes must include the fostering of low-income housing, (ii) the not-for-profit organization must own an interest in the Development, (iii) the not-for-profit organization must materially participate (as defined in Section 469(h) of the Code) in the Development and operation of the Development, (iv) the not-for-profit organization must comply with all other Sections of the Code applicable to not-for-profit organizations and (v) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual. Notwithstanding anything contained herein or elsewhere to the contrary, if a not-for-profit organization joint ventures or participates in a Development with a for profit organization, the not-for-profit organization shall not constitute a "qualified not-for-profit organization" within the meaning of this Allocation Plan unless the not-for-profit organization at all relevant times, (i) owns at least fifty-one percent (51%) of the profits, losses, capital and other economic benefits to be derived from the joint venture (including developer fee), and (ii) maintains at least fifty-one percent (51%) of the voting and management control of the joint venture. The term "joint venture" includes, without limitation, the general partnership interests of a partnership and the manager interests of a limited liability company and the like. The not-for-profit must have been in existence at least one year, with affordable housing as one of its primary goals. You must submit at the time of application, Articles of Incorporation, Partnership Agreement, Operating Agreement, IRS documentation of Not-for-profit status (e.g. §501(c)(3)) and a complete, signed original Not-for-profit Questionnaire.

d. Private Activity Tax-Exempt Bond Financing

Pursuant to the Code, Developments that do not receive a direct allocation from the Authority because such Developments qualify for the RHTC pursuant to the Code (by virtue of being 50% or more financed with tax-exempt obligations issued after December 31, 1989), must satisfy and comply with all requirements for an allocation under this Allocation Plan and Code. See Schedule H - Private Activity Tax-Exempt Bond Requirements.

e. Market Study

All Developments must submit a comprehensive market study of the housing needs of low-income individuals in the area to be served by the Development, satisfactory to the Authority at the time the initial Application is submitted. See Schedule F - Market Study Requirements. The market study must be prepared at the developer's expense by a disinterested third party. Sufficient demand in the market area of the Development must exist and, based on reasonable predictions,

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will continue to exist during the term of the compliance period or other applicable period, for the number of units to be developed.

f. Public Disclosure

A written explanation will be available to the general public for any allocation of a housing credit dollar amount, which is not made in accordance with established priorities and selection criteria.

[Note: A Development that has applied for and/or received an allocation of tax-exempt bond authority will not be eligible for an allocation of nine (9%) percent RHTCs for said Development. Further, a private activity tax-exempt bond-financed Development will not be eligible for IHFA HOME or LIHTF funding.]

2. Additional Threshold Requirements of the Authority

For a Development to be evaluated for an allocation of RHTCs, each of the following requirements must also be satisfied:

a. The Development applicant/owner, developer, management agent and other members of the Development team as provided in the Multi-Family Housing Finance Application must demonstrate sufficient financial, Development and managerial capabilities to complete the Development and maintain it for the minimum compliance period and other applicable period.

b. Prior to issuance of IRS Form 8609 property management staff assigned to the Development must receive an IHFA Rental Housing Tax Credit Compliance Workshop completion certificate. The Management Agreement between the owner and the management company must be for a minimum of two (2) years, as evidenced in the management agreement.

c. Prior to application submittal, the Developer must submit documentation, of its intent to develop affordable housing to the highest local elected official in the community where the proposed Development will be located. Copies of such information are a required part of the Multi-Family Housing Finance Application.

d. The Development team must show their readiness to proceed as demonstrated by:

1) The Authority's receipt of a completed "Application" in the form required by the Authority and within the time period established and set forth in this Allocation Plan. Each Application must be type written and accompanied by the appropriate application fee. Also each member of the Development team must submit a written affidavit accurately disclosing his/her complete interest in and affiliation with the proposed Development.

2) Submitting satisfactory evidence of site control. Notwithstanding the foregoing, “when an applicant intends to acquire a site and/or building through a government body” in the Authority's sole discretion exercised on a case-by-case basis, the Authority may accept the following documentation as sufficient evidence of site control: (i) duly adopted resolutions of the applicable commission designating the subject area; (ii) duly adopted resolutions of the applicable commission authorizing the acquisition of the land to comprise the Development; and (iii) a letter from the applicable governmental agency or development commission setting forth the acquisition schedule for such land on a time table consistent with the Applicant's readiness to proceed without undue risk of Rental Housing Financing being returned to or rescinded by the Authority.

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3) Submitting satisfactory schematics, survey, site plan, and floor plans for units of the Development which to the sole satisfaction of the Authority, show the Development is of quality design providing decent, safe and sanitary housing. The Authority reserves the right to perform (through its own representatives or its agents) site visits and evaluations of the Development to determine the satisfaction of these requirements.

4) Submitting information indicating ability to obtain financing or other forms of additional funding (i.e. syndication proceeds, grants, other funds available for the Development) as may be evidenced by a loan commitment letter and/or other information satisfactory to the Authority indicating the likelihood of being able to obtain such financing on a timetable consistent with the contemplated allocation of Rental Housing Financing.

e. The Development team must provide documentation to the sole satisfaction of the Authority that shows:

1) The location of the Development is in an area suitable for the proposed Development and is not now, nor is it likely in the future to become, subject to uses or determinations, which could adversely affect its operation, marketability or economic feasibility. (Provide letters from developers, engineer(s), architect(s), market analyst, lender and/or equity provider.)

2) There are or will be accessible on or before the estimated completion date of the Development, such public and private facilities (i.e. schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) which will adequately serve the proposed Development and which are necessary or desirable for use and enjoyment by the contemplated residents.

3) The real estate upon which the Development will be located is currently properly zoned to allow for its use as a multi-family housing Development. Applicant must provide a letter from the appropriate authorized official that describes the Development location and certifies that the current zoning allows for construction and operation of the proposed Development without variance.

4) At the time of application, there will be access to water, sewer, gas and/or electric to the site with sufficient capacity to satisfy the requirements of the Development. The Development shall have received a certification (acceptable to the Authority) from the appropriate entity that facilities and capacities will be timely available to satisfy the needs of the Development.

5) Any equity commitment and/or loan commitment submitted by an Applicant in support of the Applicant's application must contain a representation and acknowledgment from both the equity investor and/or lender, as the case may be, that: (i) such investor and/or lender has reviewed the same application submitted or to be submitted by the Applicant to the Authority in support of the RHTCs for the Development to which such commitment relates; (ii) such investor and/or lender expressly acknowledges that the Development will be subject specifically to the “40-60” or “20-50” set-aside, and extended use restriction elections made by the Applicant (iii) such investor and/or lender has reviewed the Underwriting Criteria set forth in this Allocation Plan; and (iv) any other special use restriction elections made by the Applicant, which give rise to additional points in this Allocation Plan. Equity commitment letters must also include the amount of RHTC equity (net and gross). Commitment letters must be signed and dated prior to the application deadline date.

f. The characteristics of the site (e.g. size, topography, terrain, soil and sub-soil conditions, environmental, vegetation and drainage conditions) must be suitable for the construction, rehabilitation and operation of the proposed Development. No Development will be considered if

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any of the buildings are or will be located in a 100 year flood plain or on a site which has unresolved wetlands problems, or contains hazardous substances, or the like.

g. At the time an owner, developer or other Applicant (the "Applicant") files an Application with the Authority, eligible Development costs expended or incurred towards the Development and/or acquisition shall not exceed fifty percent (50%) of the total estimated eligible Development costs, unless the Authority determines that:

1) Rental Housing Financing is necessary for the Development to be completed; and

2) The Development is located in either (a) a "qualified census tract" or (b) "difficult Development area", as designated by the U.S. Secretary of Housing and Urban Development ("HUD"). You may also view the information on HUD's website at: www.hud.gov., and

3) Less than sixty-five percent (65%) of the estimated qualified eligible costs have been expended or incurred; and

4) The Development will contribute to the accomplishment of the Authority's housing goals.

h. Applicant(s) proposing Developments consisting of five (5) or more units must complete and submit HUD Form 935.2 Affirmative Fair Housing Marketing Plan (See Schedule G) at the time of initial application. Applicant must obtain approval from HUD and/or RHS within one (1) year after the Placed in Service date. A copy of the approved Plan must be submitted to the Authority within thirty (30) days of receipt.

i. All applicable conditions and requirements of State and local laws, statutes, regulations, ordinances and other proper authorities in the State, including, without limitation, the requirements specified in the Application, the Indiana Handicapped Accessibility Code as amended, and such additional items which may be required by the Authority (collectively, "State Laws"), shall be satisfied.

j. The Development must have a bona fide commitment (from the Development owner and/or other investors) for the investment of all required equity funds in the Development and a bona fide loan commitment letter, or similar evidence identifying the terms of financing, which obligates the lender to fund the Development; each upon commercially reasonable terms subject only to customary closing conditions and otherwise upon such terms and conditions as are satisfactory to the Authority in the Authority's sole discretion.

k. The Development team must satisfactorily demonstrate that all prior findings and assessments against all Applicants and its principals, participants and affiliates have been satisfied.

l. The Authority will not consider or review more than one Application for the same Development or for substantially the same or similar costs submitted by a related Applicant with respect to a particular reservation and application cycle. Submission of more than one Application shall cause the cancellation of any pending Application earlier awarded, except for a supplemental RHTCs request. All Applicants requesting supplemental credits for a Development that has received an allocation of Credits in a prior round must however, meet the same scoring requirements for the supplemental Credits or be subject to a possible rescission of the prior allocation for said Development. Applications for supplemental credits will only be accepted and allocated in the same calendar year as the initial allocation.

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m. If applying for Acquisition RHTCs, the Applicant at the time of initial application must submit a copy of the Developments fair market appraisal. RHTCs and/or acquisition eligible basis will be calculated based on the lesser of the actual amount paid for the building or the appraised value.

n. Underwriting Requirements

1. Operating Expenses - $2,700-3,000/unit or 35% of Gross Income whichever is greater
2. Management Fee – 5-7% of "effective gross income" (gross income for all units less Vacancy Rate). 1-50 units 7%, 51-100 units 6% and over 100 units 5%
3. Vacancy Rate –5- 7%
4. Rental Income Growth – 1-2%/year
5. Operating Reserves - four (4) months of operating expenses plus debt service
6. Replacement Reserves - $175-300 per unit
7. Operating Expense Growth –2- 3%/year
8. Stabilized debt coverage ratio minimum of 1.15, maximum of 1.35

NOTE: Amount to be set aside for operating reserves should be included in both the lender and equity provider commitment letters. Applicants proposing operating reserves less than four (4) months must justify this proposal.

All information submitted to the Authority pursuant to this Allocation Plan must be satisfactory to the Authority in its sole and absolute discretion. If the Authority requests additional information from an Applicant, such information must promptly be submitted within timeline(s) determined by the Authority.

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3. User Eligibility and Limitations

a. Applicant and Development Limitations

During any calendar year, the amount of RHTCs, which may be reserved for allocation (including any transfers of RHTCs during the applicable calendar year) to any person, entity, or Developer, may not exceed $1,000,000**.** Provided, however no Development shall receive more than $600,000 of RHTCs in any calendar year. Such limitation shall be subject to review and modification by the Authority. [Excluding Developments financed with Bonds and 4% RHTCs.]

If the Authority determines that it is in the interest of the State to allocate additional RHTCs to such person, entity or Development, then the Authority may waive such limitation.

b. Developer and Contractor Fee Limitations

The amount of developer fees ("Developer Fees") allowable, for purposes of determining the amount of RHTC to be allocated with respect to each Development, shall be limited to a percentage of total eligible Development costs, excluding the Developer Fee, which comprise the eligible basis of the qualified low-income building(s), determined pursuant to the Code ("TEDC"). The Authority will monitor both hard and soft costs of the Development compared to Developments of similar size and location. The amount of Developer Fees shall be limited, as follows:

Total Eligible Development Cost ("TEDC") (as determined above)	**Developer Fee % Limitation**
Up to $1,000,000	20% of TEDC
Over $1,000,000 and up to $2,000,000	$200,000 + 15% of TEDC over $1,000,000
Over $2,000,000	$350,000 + 10% of TEDC over $2,000,000

NOTE: Consultant fees will be considered part of the developer fee.

To be included in RHTC basis, deferred developer fee must be due and payable at a date certain. Fees may be paid as a cash flow loan if it can be demonstrated that the fee can and will be paid in a reasonable amount of time (generally considered to be ten (10) to fifteen (15) years). If fees are permanently contributed to the Development, they must be paid to the developer and then contributed to the Development if the fees are to be included in RHTC basis.

Contractor fees ("Contractor Fees") shall also be limited, for purposes of determining the RHTC amount to be allocated, based on the amount of eligible costs incurred toward the construction or rehabilitation of the Development, excluding Developer and Contractor Fees ("QCC"). The Contractor Fee limitations are as follows:

Contractor Fees	Contractor Fee % Limitation
General Requirements	6% of QCC
General Overhead	2% of QCC
Builder's Profit	6% of QCC
Total	**14 % of QCC**

The Authority will permit savings in a particular Contractor Fee line item to offset overruns in other Contractor Fee line items; provided, however, that in any event the total Contractor Fees shall not exceed 14%.

NOTE: Any increase in Developer and/or Contractor fees after conditional allocation must be approved by the Authority prior to Final Application and IRS Form 8609 Request.

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4. Compliance Monitoring and Evidence of Compliance with Other Program Requirements

Every Applicant, Principal, and/or Development Team member (collectively, "Development Team") with any ownership interest in a low-income housing Development which has received an allocation of RHTCs by the Authority since the inception of the RHTC program (January 1, 1987), must cooperate and comply with the Authority's compliance monitoring procedures. The Authority's monitoring procedures and requirements are set forth in the RHTC Compliance Manual, a copy of which is attached as Schedule D to this Allocation Plan and made a part hereof. If, in the sole discretion of the Authority, any Development Team member has materially failed to comply with the procedures and requirements of the Authority, or any of its programs, the Code or any other governmental program, including, but not limited to, HUD and/or HUD funded programs: (i) the Authority may withhold or reduce, in whole or in part, Rental Housing Financing for which application is made, irrespective of whether the withheld or reduced funding relate to the Development to which the noncompliance relates; and (ii) in addition, if the Applicant's noncompliance is chronic and/or egregious in nature, the Authority may refuse to accept for filing and/or otherwise refuse to consider all or any part of the Applicant's pending or future applications for funding until such time as the Authority decides otherwise. The Development Team members with an ownership interest must disclose any non-compliance issue(s) and/or loan defaults with all Authority programs (including private activity tax-exempt bonds) in which it has participated in or received funds for including those issues that have been corrected. Failure to disclose could result in the loss of Authority funding.

5. Rental Housing Financing Returned by Owner

If Authority funding previously reserved and/or allocated to a Development is returned to or rescinded by the Authority, then up to fifty (50) points may be deducted by the Authority from the total points otherwise scored on the next application submitted by the Applicant (or its principals). The Authority, in its sole and absolute discretion,

shall have the right to grant a waiver from the foregoing points deduction for good cause shown by the Applicant. No such waiver will be granted unless the Applicant furnishes the Authority with a written request for such waiver at the time the Credits are returned and/or rescinded specifying therein with specificity satisfactory to the Authority the reasons therefore. All requests for return of fees paid to the Authority for said Development will be denied.

6. Receipt of Rental Housing Financing

Applicant(s) receiving Rental Housing Financing must satisfy at time of final application all scoring criteria they received points for unless otherwise approved by the Authority in writing.

F. Notification of Intent to Apply for Funding

Applicants applying for Rental Housing Financing are required to notify the Authority in writing at least two weeks prior to the application deadline date. (Notification may be provided via facsimile – Attention: Tax Credit Allocation Department.) Notification must include Applicant name, the site location including city and county, estimate of all funding and type to be requested, and construction type (new construction, rehabilitation and/or acquisition rehabilitation). Failure to comply with this requirement will result in a five (5) point reduction from the total score for the Development.

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G. Evaluation Factors

The Authority has developed five (5) categories of criteria, based on the needs assessment conducted and the housing goals established by the Authority. If an Application satisfies all applicable requirements, then it will be evaluated and scored based on: (1) the constituency served by the Development (i.e. mixed income tenants, special needs population) being 50 possible points; (2) Development characteristics being 85 possible points; (3) financing being 35 possible points; (4) market being 30 possible points; and (5) other being 40 possible points. Consequently, there are 240 possible points. No RHTC allocation shall be awarded to any Development, which scores below a total of 130 points under this Allocation Plan. (This includes Developments utilizing Private Activity Tax-Exempt Bonds.) The Authority reserves the right not to allocate Credits to a Development that scores 20 or more points less than the nearest Development receiving Rental Housing Financing. A written explanation will be made available to the general public for any allocation of a housing credit dollar amount, which is not made in accordance with established priorities and selection criteria.

1. Constituency Served

All Developments must meet the minimum set-aside requirement for Section 42 with election of the "40-60" or the "20-50" set-aside.

a. Serves Mixed Income Tenants

If the Development intends to serve tenants with maximum household incomes lower than required by Section 42 of the Code and maintain rents for units at a level not to exceed the maximums as published in Appendix G and H, points will be awarded as follows: [2]

Percent of total units set-aside at or below 30% AMI	Points
5-10%	2
11-20%	5
21% or more	10

Percent of total units set-aside at or below 40% AMI	Points
15-20%	2
21-30%	5
31% or more	10

Percent of total units set-aside at or below 50% AMI	Points
15-20%	2
21-31%	5
32% or more	10

You will not be permitted to utilize the unit's set-aside at one AMI to also be awarded points for another AMI category.

[2] The term "set-aside" shall mean and require that units designated as "set-aside" for a specific population may be used only for the identified population and for no other. If qualified tenants in the designation population are not available, the unit(s) must remain vacant. The Authority will not consider waiving or modifying any set-aside request until units have been placed in service for a minimum of eighteen months

b. Market Rate Units

If the Development provides for a mixture of market-rate units (market rate units are those units that will not be reserved for Qualified Low Income Tenants) then points will be awarded in accordance with the following chart:

Percent of Market-Rate Units	Points
5-10%	2
11-15%	5
16%+	10

c. Homeless Population

Applicant has committed in writing to "**set-aside**" a percentage of the total units in the Development as housing for the homeless while they receive training and supportive services necessary to make the transition to independent living. Homeless is defined as a individual or family that lacks a fixed, regular, and adequate nighttime residence; or an individual or family that has a primary nighttime residence that is: (1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill; (2) an institution that provides a temporary residence for individuals intended to be institutionalized; or (3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. This term does not include any individual imprisoned or otherwise detained under an Act of the Congress or a State law. A written referral agreement must be in place with a qualified organization that provides services to the homeless and a certification of commitment. Points will be awarded based on 1 point for each percentage set-aside up to a maximum of 5 points.[2] 0-5

d. Persons with Disabilities

Applicant has committed in writing to **set-aside** a percentage of the total units in the Development to qualified tenants who meet the State definition of disabled as provided in IC 5-20-1-4.5 and must equip each unit to meet a particular person's disability need at no cost to the tenant. A written referral agreement must be in place with a qualified organization that provides services for persons with disabilities. Points will be awarded based on 1 point for each percentage set-aside up to a maximum of 5 points.[2] . 0-5

The Authority encourages owners to disperse all low-income units evenly among buildings and units in a mixed income, multi-building Development.

Maximum Number of Points 50

2. Development Characteristics

a. Unit Types

1) A Development that has 30%, or more of the RHTC units with two (2) or more bedrooms. 5

or

A Development that has 50%, or more of the RHTC units with two (2) or more bedrooms. 10

[2] The term "set-aside" shall mean and require that units designated as "set-aside" for a specific population may be used only for the identified population and for no other. If qualified tenants in the designation population are not available, the unit(s) must remain vacant. The Authority will not consider waiving or modifying any set-aside request until units have been placed in service for a minimum of eighteen months

2) A Development that has 20%, or more of the RHTC units with three (3) or more bedrooms. 5

or

A Development that has 30%, or more of the RHTC units with three (3) or more bedrooms. 10

3) A Development that has 15%, or more of the RHTC units with four (4) bedrooms.10 **[Elderly Developments will not receive points for three (3) or four (4) bedroom units.]**

b. Development Design

Based on the Development schematics, as set forth in the site plan and a letter from the Architect on his/her letterhead certifying the existence of the design/amenities. The Authority will award points in this category based on 1 point for each design/amenity/quality up to a maximum of 20 points (Design, amenity and/or quality must be for "all" units):

Wall to wall carpeting (living area)	Central air conditioning	Double well sinks in kitchen
10 units or less per acre	Hard wood floors	Blinds/Curtains/Drapes
Individual entrance to unit	Intercom system	Peephole (exterior door(s))
Security camera - all entrances	Garbage disposal	Built in dishwasher
50% or more brick exterior	Playground	Basketball court
Tennis court	Swimming pool	Garden area for tenants to use
Individual porch/patio/balcony	Microwave	Green space/flowers/trees
Ceiling fans	Steel Frame	1 parking space per unit
ADA Accessibility signs	Multiple floor plans	Multiple building designs
External individual attached storage	Fire walls	Sound proof interior
Bike racks (1 per building)	Cable hook-up	Interior internet wiring access
Fireplace	Ceramic Tile (bathroom)	Garage
Carport	Washer/Dryer hook-up	Walk-in closet
Door bell	Security alarm	Motion detector lights

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c. Unit Size

As provided in the Multi-Family Housing Finance Application the net square footage is defined for the purpose of these scoring criteria to be the total livable space within the interior walls of the unit (this excludes garages, balconies, exterior storage and Development common areas). All of the proposed units will be scored as follows:

1) Efficiency /0 BR units >375 sq. ft.
2) One BR units > 675sq. ft.
3) Two BR units > 875 sq. ft.
4) Three BR units > 1075 sq. ft.
5) Four or more BR units > 1275

[Note: Points will be calculated based on the percentage of units that meet or exceed these minimum square footages. Unit floor plans must include square footages.]

d. Existing Structure

1) Development converts a percentage of total square footage in a vacant structure (s) into affordable rental housing. Points will be awarded as follows:

20%	1
40%	2
60%	3
80%	4
100%	5

2) Development will utilize Historic Tax Credits on the residential portion of the building(s). Must provide evidence the building is individually listed in the National Register of Historic Places or have submitted a Part 1 application and received a recommendation for approval by the Indiana Department of Natural Resources Division of Historic Preservation and Archaeology. (Must include a copy of historic application and "approved" Part I). At least 50% of the total units must be located in eligible historic buildings in order for a Development to receive points in this category. 10

3) Development is a federally assisted low-income housing Development with at least 50% of its units in danger of being removed by a federal agency from the low-income housing market due to eligible prepayment, conversion or financial difficulty. (Must include documentation from the federal agency that will no longer be assisting the Development, including why assistance is no longer available.) 10

Such Developments must include, but are not limited to, as determined in the Authority's sole discretion, the following:

(a) Preservation-eligible Developments under Title II Emergency Low Income Housing Preservation Act of 1987 ("ELIHPA") or Title VI Low Income Housing Preservation Act of 1990 ("LIHPRHA"),
(b) Developments with expiring Section 8 contracts, regardless of whether the Owner has given notice of its intent to allow such contracts to expire,
(c) Developments with HUD-held mortgages,
(d) Troubled Developments that have received assistance through the USDA Rural Housing Service (RHS) office. Applicants must provide a letter from the RHS office that details the current situation for the project, and explains the need for housing RHTCs,
(e) Developments participating in the HUD Portfolio Reengineering Program. Applicants must provide a letter of eligibility from HUD and be assigned a Participating Administrative Entity (PAE); or
(f) Development is part of the Revitalization Plan for a HOPE VI grant that has been awarded by the U.S. Department of Housing and Urban Development (HUD).

Maximum Number of Points 85

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3. Financing

a. Serve Qualified Tenants for the Longest Period

Developments committing to serve tenants for the longest period of time shall be given preference by the Authority. A Development will receive additional points for electing to set aside the required percentage of units for low-income use for longer than the minimum compliance period of fifteen (15) years.

Minimum compliance period		Extended use period		Total	Points
15 years	+	25 years	=	40 years	10
15 years	+	30 years	=	45 years	15
15 years	+	40 years	=	55 years	20

or

Lease Purchase Program – Development (must be single family detached structure(s)) will offer homeownership opportunities to qualified tenants after initial 15-year compliance period (Please see IRS Rev. Ruling 95-49 and IHFA Declaration of Rental Housing Commitment). This option is not available for elderly Developments. 20

b. Effective Use of Resources

1) Development has received a bona fide commitment (from Development owner and/or other investors) for the investment of all required equity funds in the Development, upon commercially reasonable terms subject only to customary closing conditions and otherwise upon such terms and conditions as are satisfactory to the Authority. (Commitment must include terms and conditions of fund(s), and must also address item in the threshold section of this Allocation Plan). 5

2) Development has received a bona fide loan commitment letter, or similar evidence identifying the terms of financing, which obligates the lender to fund the Development, upon commercially reasonable terms subject only to customary closing conditions and otherwise upon such terms and conditions as are satisfactory to the Authority. (Commitment must include terms and conditions of fund(s), and must also address item in the threshold section of this Allocation Plan). 5

3) Cost per unit (defined as Total Development Cost from the Multi-Family Housing Finance Application for RHTCs minus any historic tax credits and/or commercial cost divided by the total number of units in the Development) is less than:

Historic Rehabilitation	$85,000 per unit	5
New Construction	$70,000 per unit	5
Substantial Rehab	$75,000 per unit	5
Single Family (Infill) Scattered Site	$90,000 per unit	5

AMENDED

[Note: IHFA has established a maximum per unit cost of $95,000 for new construction and substantial rehabilitation. Single-family infill and historic rehabilitation Developments will be subject to a $100,000 per unit maximum. Applicants proposing a cost per unit in excess of these maximums will be subject to a reduction in eligible basis and RHTCs.]

At Final Application, the Development must meet the same cost per unit or, in the sole discretion of the Authority, be subject to a possible reduction of up to 50% of the initial conditional allocation of RHTCs.

Maximum Number of Points 35

4. Market

a. Difficult to Develop Area

Development is located in a "qualified census tract" of a metropolitan statistical area or a difficult Development area as designated by the Secretary of HUD for the RHTC program (See Schedule C). To receive points, must provide census tract map. 10

b. Local Housing Needs

Town or city with an affordable housing shortage as provided in the market study that has less than150 total RHTC and/or Bond units including those under construction. 5

c. Economic Development

A Development that receives a letter from the highest local elected official that states how the proposed Development will contribute to the economic need of the community and further the community's economic goals. 5

d. Community Rehabilitation Preservation

The Development's rehabilitation will support community preservation as evidenced by a letter from the local governing jurisdiction which specifically 1) describes the Development and the plans for its preservation 2) defines the neighborhood or area; 3) describes intended uses; and 4) states the Development's rehabilitation compatibility to the area, and materially benefits the neighborhood or area

10

Maximum Number of Points 30

5. Other

a. Government Participation

Development has received written approval for monetary **local** government (town, city, or county) funding. Including but not limited to tax abatement, infrastructure, grants, land, building(s), etc. Must include amount of monetary funding to receive points. 5

AMENDED

b. Minority Business Enterprise (MBE) Participation

Minority Business Enterprise means as an individual, partnership, corporation, or joint venture of any kind that is owned and controlled by one or more persons who are: (a) United States Citizens and (b) Members of a racial minority group as evidenced by certification from the Indiana Department of Administration, Office of Minority Development. (The Authority understands that this Department does not issue certifications for housing. However, the certification from this Department is acceptable.) "Owned and controlled" means having for: (i) owners and developers: (a) ownership of at least 51% of the enterprise (stock of a corporation; interest in a limited liability company; or general partner of a limited partnership); (b) control over the management and active in the day to day operation of the business; (c) an interest in the capital, assets and profits and losses of the business proportional to the percentage of ownership; and, (d) materially participates in the Development or management of the Development; or (ii) contractors and management entities: (a) ownership of at least 51% of the enterprise (stock of a corporation; interest in a limited liability company; or general partner of a limited partnership); (b) control over the management and active in the day to day operation of the business; and, (c) an interest in the capital, assets and profits and losses of the business proportional to the percentage of ownership.

1)	Owner (controlling interest in general partner) **or**	7
	Developer	4
2)	Management Entity (Minimum 2 year Contract)	2
3)	Contractor	1

OR

<u>Women Business Enterprise (WBE) Participation</u>

Women Business Enterprise means as an individual, partnership, corporation, or joint venture of any kind that is owned and controlled by one or more persons who are: (a) United States Citizens and (b) Female in gender as evidenced by certification from the Indiana Department of Administration, Office of Minority Development. (The Authority understands that this Department does not issue certifications for housing. However, the certification from this Department is acceptable.) "Owned and controlled" means having for: (i) owners and developers: (a) ownership of at least 51% of the enterprise (stock of a corporation; interest in a limited liability company; or general partner of a limited partnership); (b) control over the management and active in the day to day operation of the business; (c) an interest in the capital, assets and profits and losses of the business proportional to the percentage of ownership; and, (d) materially participates in the Development or management of the Development; or (ii) contractors and management entities: (a) ownership of at least 51% of the enterprise (stock of a corporation; interest in a limited liability company; or general partner of a limited partnership); (b) control over the management and active in the day to day operation of the business; and, (c) an interest in the capital, assets and profits and losses of the business proportional to the percentage of ownership.

1)	Owner (controlling interest in general partner) **or**	7
	Developer	4
2)	Management Entity (Minimum 2 year Contract)	2
3)	Contractor	1

In support of the MBE/WBE categories, you <u>must</u> submit with your Application the following: all applicable Development, management and contractor agreements (complete with fee structure) and the names and addresses of all owners, principals and their respective affiliation.

c. Unique Features or Circumstances

AMENDED

Applicant has submitted written evidence that the Development has unique features that go over and beyond and contribute to the Development of affordable housing in the community where the Development is located. This would include the unit and common area amenities. Points are awarded relative to other Developments being scored during each Application cycle. 0-10

d. Services

Applicant has submitted written signed commitment(s) with qualified organizations evidencing types of **optional** services to be provided to the residents of the Development. (Examples include, without limitation, on-site day care service, credit counseling, learning centers, access to computer hardware and software, transportation, health screening, meal service, etc.) The term of the commitment, defined scope of service, cost if any to the tenants, frequency of service, and financing plan must be submitted with the application. (Services should be tailored to the needs of the targeted clients and preference will be given to those developers offering the services on site and at no cost to tenants.)

1) Applicant proposes minimal services with firm commitments for 2 years effective at the placed in service date (signed commitments from developer and providers lack information scope, financing plan, frequency and term of commitment. Majority of services is provided off-site). 5

or

2) Applicant proposes moderate services with firm commitments (wider scope of services proposed, signed commitments with some evidence of coordination, financing, and firm commitments for 3-5 years effective at the placed in service date. Majority of services provided on-site). Consideration will be given to Developments that provide a majority of services off-site due to special circumstances. 10

or

3) Applicant proposes exceptional services with firm commitments, defined scope of service, financing plan, and firm commitments for 6 or more years effective at the placed in service date. (Services tailored to needs of targeted clients. Majority of services provided on-site). 15

Maximum Number of Points 40

AMENDED

Notwithstanding the point ranking system set forth above, the Authority reserves the right and shall have the power to allocate RHTCs to a Development irrespective of its point ranking, if such intended allocation is: (1) in compliance with Code Section 42; (2) in furtherance of the Housing Goals stated herein; and (3) determined to be in the interests of the citizens of the State of Indiana.

Any Development found to be in violation of this Allocation Plan will be subject to a reduction or rescission in Rental Housing Financing, and all Development Team members may be subject to debarment of participating in all Authority financing programs for up to five (5) years.

H. Miscellaneous

1. Fees for additional services

The Authority will assess the Development and/or Applicant the reasonable costs (including any costs and fees it may incur) for additional or extraordinary services requested by or required of any Applicant, owner or Development. All such assessments must be paid prior to any final allocation of RHTCs (i.e. the issuance of IRS Form 8609) or before any subsequent application will be considered, whichever should first occur.

2. Use of forms

The Authority **requires** the use of the forms included as exhibits. Any deviations from the language will revoke the RHTC application and/or award. (**Owners who have received an allocation in prior years must use the most recent forms**.)

3. Change in Ownership

IHFA Board of Directors must approve any change in ownership or transfer request before the issuance of IRS Form 8609 for any Development that has received an allocation of RHTCs and/or Bonds. Failure to notify the Authority of changes in ownership for RHTCs and/or Bonds after the issuance of IRS Form 8609 could result in the allocation being rescinded and/or possible non-compliance issues.

4. Development and/or Applicant/Owner Modifications

Modifications to the Development that affect threshold requirements, and/or scoring items in the Allocation Plan in any way without prior written approval from the Authority may result in a reduction and/or rescission of the Authority funding (including private activity tax-exempt bonds).

5. Issuance of IRS Form 8609 ("8609")

IRS Form 8609(s) will only be issued once. However, in exceptional circumstances the Authority may, in its sole discretion and upon receipt of additional fees (as determined by the Authority) elect to review additional circumstances that may allow for the issuance of amended IRS Form 8609(s). All documents requested shall be submitted to the Authority in a timely manner as defined by the Authority.

Upon completion of the Development, the owner must submit at a minimum the following documentation to the Authority:

- Completed Final Multi-Family Housing Finance Application and Cost Certification (most current version);
- Certificates of Occupancy or Certificates of Substantial Completion;
- All permanent financing documents if available (if not must provide within ten business days of execution.);
- All construction financing documents;
- Current partnership agreement or limited liability company operating agreement executed by the limited and general partners or managing member;
- Original recorded Declaration of Extended Low Income Housing Commitment, executed by owner, lender and the Authority;
- IHFA Rental Housing Tax Credit Compliance Certificate. Owner and management agent must have attended within the last year;
- Executed Development Agreement;
- Copy of deed showing partnership as owner;

AMENDED

- Photograph of completed Development (exterior and interior); and
- Any other documents that the Authority may require in determining the final amount of RHTCs to be allocated to the Development and the Development's conformance with the requirements of Section 42.

The Authority anticipates mailing out IRS Form 8609(s) up to 60 working days after the requested materials have been submitted to the Authority. Incomplete or insufficient documentation will result in a delay of the 8609 issuance.

6. Dissemination of Information

Any application for Rental Housing Tax Credits or Private Activity Tax Exempt bonds, and related amendments and information in support thereof except personal financial information, are available for dissemination and publication to the general public.

AMENDED

List Of Schedules

A	Large Cities
B	Small Cities
C	Qualified Census Tracts
D	Rental Housing Tax Credit Compliance Manual
E	Policies and Procedures Regarding Transferability of Rental Housing Tax Credits
F	Market Study and Fair Market Appraisal Requirements
G	Affirmative Fair Housing Marketing Plan
H	Private Activity Tax-Exempt Bond Financing ("Bonds") Requirements
I	501(c) 3 Tax-Exempt Bond Requirements
J	Procedures of Accessing HOME Funds
K	Procedures of Accessing a Trust Fund Loan
L	Application and Reservation Cycles
M	Application, Reservation and Additional Fees

AMENDED

Appendix D

HUD Handbook 4350.3 CHG-27

Section 8 Income Guidelines

CHAPTER 3. CERTIFYING TENANT ELIGIBILITY AND CALCULATING TENANT RENTS IN MULTIFAMILY SUBSIDIZED PROJECTS

3-1. OVERVIEW. To maximize the limited amount of housing subsidy available to low-income families, Congress and the Department, through its regulations, seek to assure that the subsidy goes to the people who need it the most. In addition, Congress and the Department also provide economic lift to low income families by excluding certain types of income in determining their rent. These laws and regulations determine what income will be counted in determining tenant rents.

The formulas shown in Exhibit 3-3 were established by the 1981 Housing and Community Development Amendments (1981 HCDA) and implemented through CHG-1 to Handbook 4350.3 (Chapter 3) in 3/85. Appendix 16 lists the tenant rent formulas that applied before 3/85.

a. Owners must perform certifications of applicant and tenant data to determine their eligibility for assistance and level of benefits in accordance with HUD requirements.

b. This chapter sets out:

(1) Program rules on determining tenant rents.

(2) Requirements on owner verifications of data supplied by applicants and tenants.

(3) Requirements for owners to electronically transmit tenant data to HUD (or the Contract Administrator, if applicable).

3-2. DEFINITIONS. Most of the terms used in this chapter are defined in Exhibits 3-1 (for all programs but PAC and PRAC) and 3-2 (for the PAC and PRAC programs). Because of the length of discussion required to explain certain terms (e.g., adjusted income, child care allowance, medical allowance, handicap/disability assistance allowance), explanations of these terms are provided in the chapter text rather than in Exhibits 3-1 and 3-2.

Regulatory References: The following regulations define income, adjusted income and allowances:

24 CFR 813 - Section 8 programs

24 CFR 215 - Rent Supplement

24 CFR 236 - Section 236, RAP

24 CFR 885 Subpart C - PAC

24 CFR 889 and 890 - PRAC

SECTION 1. Determining Tenant Rents

Subsection A: Owners' Requirements for Determining Tenants' Rents

3-3. COMPUTING TENANTS' RENTS. The rents which assisted households pay are based upon Federal laws and HUD regulations.

a. Owners compute tenants' rents based upon the statutory Tenant Rent Formulas listed in Exhibit 3-3. Tenant Rent Formulas vary according to:

(1) The Family's income and

(2) The type of subsidy the family receives (BMIR, Section 236, Rent Supplement, RAP or Section 8)

b. Owners determine tenants' annual income and adjustments to annual income based upon the income and allowance rules discussed in chapter 3.

NOTE: A household need not have income to be eligible for assisted housing programs that provide deep subsidy (i.e., Section 8, Rent Supplement, RAP). Owners do not determine adjustments to income for BMIR tenants who do not receive any other type of subsidy.

3-4. DOCUMENTS OWNERS MUST USE TO COMPUTE TENANTS' RENTS. Owners must use the following HUD documents in determining and certifying tenant eligibility and tenant rents. The required documents have been revised as part of the automation of the tenant certification and recertification process. For example, the Form HUD-50059 (Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures), which was the paper document for certifying tenant incomes, is being replaced by similar documents that support electronic transmission of tenant data.

a. Handbook 4350.3, particularly Chapter 3. Chapter 3 and its related exhibits and appendices provide the business rules that support the 50059 Data Requirements for Determining Tenant Rents and the TRACS MAT Guide.

b. Appendices 3 through 18 of Handbook 4350.3. These appendices provide supporting information for Chapter 3. For example, these appendices provide: verification consents and related information; data collection requirements for determining tenant rents; data entry

rules; additional worksheets for certain tenants; and historical information.

c. The 50059 Data Requirements for Determining Tenant Rents (which support the electronic transmission of data to HUD/Contract Administrator through TRACS). This document lists and describes the data that owners are required to collect from applicants and tenants and the calculations owners must perform to certify tenant eligibility and tenant rents. This document hereafter will be referred to as The 59 Data Requirements. The rules set out in Handbook 4350.3, particularly Chapter 3, serve as the basis for The 59 Data Requirements. The 59 Data Requirements are contained in Appendix 11.

(1) Owners must compute rents for assisted housing tenants using The 59 Data Requirements (i.e., for tenants paying a Section 8, Rent Supplement, RAP; Section 236 or BMIR rent).

(2) The 59 Data Requirements provide different instructions for individual tenants, depending upon the type of assistance they receive, the family's individual circumstances (including noncitizen status) and depending upon whether limitations on increases in their rent apply. The 59 Data Requirements impose rent increase limitations for those tenants whose rent increases are limited under paragraph 3-7.

d. 59 Worksheets D, F and G. These additional worksheets are required only for certain tenants covered by the rent increase protections of paragraph 3-7. The 59 Data Requirements draw from the information that is calculated using these worksheets. (Note that the former worksheet form HUD 50059e is incorporated into the 59 Data Requirements in paragraph c above.) See Appendix 14.

e. The 59 Owner and Tenant Certifications. The owner and tenant sign certifications concerning the information they each have supplied for the 59 Data Requirements.

f. TRACS Monthly Activity Transmission (MAT) User's Guide. (MAT Guide). The rules on electronic transmission are set out in the MAT Guide. Owners may obtain copies of by calling 1-800-767-7588. Ask for the Information Packet. See Subsection B, Owners' Requirements to Electronically Transmit Tenant Data to HUD or the Contract Administrator.

3-5. OWNER AND TENANT CERTIFICATIONS (The 59 Certification). These are the signature and file copies for the tenant's records and for the owner's files. A model certification is contained in Appendix 11.

a. The owner must produce a certification for both the owner and the tenant containing:

(1) The information which both the tenant and the owner have provided to determine the tenant's rent and;

(2) A certification statement concerning the accuracy of the information they each have provided.

b. The 59 Owner Certification must:

(1) Contain the following title: The 50059 Owner and Tenant Certification.

(2) Contain all of the information fields listed in the 59 Data Requirements in Appendix 11 and contain the exact numbering of these fields.

NOTE: Although the 59 Certification is not an official HUD form, the information contained in it is subject to OMB review and approval.

(3) Appear in a format that is easily readable and understandable by project staff who must complete and sign the certification and by HUD and Contract Administrator staff who must monitor files.

(4) Contain the following statements:

(a) NOTICE TO OWNERS: PENALTIES FOR MISUSING APPLICANT AND TENANT INFORMATION: Title 18, Section 1001 of the U.S. Code states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department of the United States Government. HUD, the PHA and any owner (or any employee of HUD, the PHA or the owner) may be subject to penalties for unauthorized disclosures or improper uses of information collected from the applicant or tenant. Any person who knowingly or willfully requests, obtains or discloses any information under false pretenses concerning an applicant or tenant may be subject to a misdemeanor and fined not more than $5,000. Any applicant or tenant affected by negligent disclosure of information may bring civil action for damages, and seek other relief, as may be appropriate, against the officer or employee of HUD, the PHA or the owner responsible for the unauthorized disclosure or improper use.

(b) NOTICE TO TENANTS ON THE PRIVACY ACT: The Department of Housing and Urban Development (HUD) is authorized to collect this information by the U.S. Housing Act of 1937, as amended (42 U.S.C. 1437 et.seq); the

Housing and Urban-Rural Recovery Act of 1983 (P.L. 98-181); the Housing and Community Development Technical Amendments of 1984 (P.L. 98-479); and by the Housing and Community Development Act of 1987 (42 U.S.C. 3543). The information is being collected by HUD to determine an applicant's eligibility, the recommended unit size, and the amount the tenant(s) must pay toward rent and utilities. HUD uses this information to assist in managing certain HUD properties, to protect the Government's financial interest, and to verify the accuracy of the information furnished. HUD or a Public Housing Authority (PHA) may conduct a computer match to verify the information you provide. This information may be released to appropriate Federal, State, and local agencies, when relevant, and to civil, criminal, or regulatory investigators and prosecutors. However, the information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. You must provide all of the information requested. Failure to provide any information may result in a delay or rejection of your eligibility approval.

(c) Public Reporting Burden: The reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600; and to the Office of Management and Budget, Paperwork Reduction Project (2502-2024), Washington, D. C. 20503.

(5) Contain the following certification that the owner (or designated agent) must sign and date:

(a) "The 59 Owner Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures: I certify that this Tenant's eligibility, rent and assistance payment have been computed in accordance with HUD's regulations and administrative procedures and that all required verifications were

obtained. I also certify that the computations are based upon the data provided by the Tenant. I have read and understand the purpose and uses of collecting the required information from applicants and tenants and I understand that misuse of this information can lead to personal penalties to me."

(b) The following warning must appear before the 59 Owner Certification: Warning to Owners - Your signature indicates that you agree with this certification statement.

(6) Contain the following certification statement that the Family head and any spouse or co-head must sign and date:

(a) "The 50059 Tenant Certification of the Accuracy of Information Provided to Receive Housing Assistance . (This certification covers the information provided by the Applicant/Tenant in Parts 2, 3 and 4 of the 59 Data Requirements.) This information is used in determining eligibility or the level of benefits. I/We certify that the information I/We have provided is true and complete to the best of my/our knowledge and belief. I/We understand that, if I/We furnish false or incomplete information, I/We can be fined up to $10,000 or imprisoned up to five years, or lose the subsidy HUD pays and have my/our rent increased. I/We have read the Privacy Act Notice."

(b) The following warning must appear before the 59 Tenant/Applicant certification: "Warning to Tenants - Your signature means that you have read the Privacy Act Notice and agree with the certification statement."

c. Owners must give the Family head a copy of the 59 certification which contains the signature of both the applicant/tenant and the owner. This may be a copy with original signatures or it may be a photo or carbon copy. (There are some submissions for which the owner will not have to obtain the tenant's signature, e.g., gross rent change; unit transfer. The owner is not required to provide the tenant with a copy of these certifications unless the tenant or applicant requests a copy.)

3-6. RECORDKEEPING

a. Owners must retain the original, signed and dated 59 Certification in the tenant's file for at least three years. This copy must contain the signatures of both

the owner and the Family head and any spouse or co-head.

b. All tenant files and information must be kept in a location that assures confidentiality. See paragraph 3-39g.

USEFUL REFERENCES

Tenant Rent Formulas	Exhibit 3-3
Definition Annual Income	Section 2, Annual Income Exhibit 3-4, Assets Exhibit 3-5, Annual Income
Adjustments to Income	Section 3, Adjusted Income

3-7. STATUTORY LIMITATIONS ON THE INCREASES IN TENANT RENTS IMPLEMENTED IN 1985 THAT MAY STILL AFFECT SOME INDIVIDUAL TENANT'S RENTS TODAY.

a. The 1983 Housing and Urban Rural Recovery Act (HURRA) and the Housing and Community Development Technical Amendments Act of 1984 (HCDA) changed the formulas and allowances used in determining tenant rents. Handbook 4350.3, CHG-1, dated March 1985, implemented these statutory changes. Exhibit 3-3 contains the current rent formulas required by HURRA and HCDA. Appendix 17 contains the formulas and allowances that were in effect before HURRA and HCDA.

b. Owners calculate statutory limitations on increases in tenant rents using the worksheets in Appendix 14. Tenants who may still be benefitting from limitations on their rent increases are:

See Appendix 13 for the statutory limitations on increases in tenant rents that may still apply to some tenants.

(1) Elderly Rent Supplement Tenants;

(2) Section 8 tenants who were converted from Rent Supplement or RAP between 10/1/81 and 9/30/84 when they were age 62 or older; and

(3) Section 8 tenants who were converted from Rent Supplement (on or after 10/1/84) when they were age 62 or older).

NOTE: Most of the tenants who once benefitted from the statutory protections on rent increases are now paying the full rent required under the law. Appendix 13 describes the statutory limitations on increases in tenant rents that may still apply. Owners previously performed special calculations on worksheets that

supplemented the form HUD 50059 (i.e., forms HUD 50059-d, f, and g, among others). Protections on increases in rent that may still apply are calculated using the Worksheets D, F and G of the 59 Data Requirements in Appendices 14a, b and c.

c. The 1981 Housing and Community Development Act limited the amount a family's rent could increase in any one year due to the statutory changes in determining rent.

(1) Under the 59 Data Requirements, tenants' rents are computed under both the pre-1984 rules and the current rules until the tenant's rent computed under the current rules is not more than 10% above the rent computed under the pre-1984 rules.

(2) After the annual recertification is processed AND the tenant is NOT affected by the 10 percent limitation, special calculations providing limitations on rent increases are no longer required.

Subsection B: Owners' Requirements to Electronically Transmit Tenant Data to HUD or the Contract Administrator

3-8. ELECTRONIC TRANSMISSION OF TENANT DATA TO HUD OR THE CONTRACT ADMINISTRATOR

a. All owners subject to Chapter 1 of Handbook 4350.3 must electronically submit tenant certifications and recertifications to HUD (or the Contract Administrator, if applicable) via the Tenant Rental Assistance Certification System (TRACS).

(1) This requirement covers Owners of 221(BMIR) and 236 projects. They must electronically submit data on tenants who do not receive assistance through Section 8, Rent Supplement or RAP. This is a change in policy. Formerly Appendix 1 (Form HUD 50059), dated 2-86, did not require submission of data on 221(d)(3)BMIR and 236 tenants who did not pay an assisted rent, unless required to do so by the HUD office or the Contract Administrator. (This policy change is found in 24 CFR 208.)

(2) Projects subject to a Preservation Plan of Action are not subject to this section. Owners of these projects must follow Chapter 8 of Handbook 4350.6 for the requirements to certify tenant eligibility and income and to bill for assistance payments.

(3) Projects that are HUD-owned are not subject to this Section. See Handbook 4315.1 on how to determine tenant rents. However, if a HUD-owned project is sold with assistance that is covered by Handbook 4350.3, then this Subsection would apply.

b. The MAT Guide referenced in paragraph 3-4 establishes the requirements for electronic transmission. The Department has coordinated the development of Chapter 3 and the MAT Guide to carry out the laws and regulations that govern the multifamily housing assistance programs.

c. The 59 Data Requirements assist owners in making the entries required by the MAT Guide. Owners must follow the Chapter 3 business rules when entering the information required by the 59 Data Requirements in Appendix 11.

Regulatory References - 24 CFR Part 208

The April 1, 1995 volume of the Code of Federal Regulations will contain the final rule dated August 24, 1994. See FR 43472 dated August 24, 1994 if you are using an earlier version of the CFR. The 1994 volume contains the interim rule at 58 FR 61022, dated November 19, 1993.

SECTION 2. Annual Income

Subsection A. What Income is Counted in Determining Annual Income

3-9. ANNUAL INCOME is the gross income the Family anticipates it will receive in the 12-month period following the effective date of certification of income.

Total Income from all Sources = Annual Income

Earned/ Unearned Income	+	Income = from Assets		Annual Income

NOTE: Chapter 2 of Handbook 4350.3 provides the eligibility rules for admission to a particular project. Chapter 3 provides the rules for determining income. By referring to "family", as provided by regulation, Chapter 3 distinguishes between members of the tenant household and other persons living in the unit (e.g., live-in attendant who is not listed on the lease, is not a member of the tenant household and whose income and circumstances are not considered in determining the household's annual income or adjusted income). Concerning eligibility to a particular project, consult with Chapter 2.

a. The regulations list examples of income that are included in Annual Income. They also list specific types of income that are excluded from income. Generally, if a particular type of income is not specifically mentioned as being excluded, then it is included in Annual Income.

b. Exhibit 3-4 lists the types of assets that are used in

determining Annual Income.

c. Exhibit 3-5 lists the types of income that are used in determining Annual Income.

3-10. WHOSE INCOME IS COUNTED AND WHOSE INCOME IS NOT COUNTED:

a. Count the income of the individuals listed below:

(1) Annual income of the head, spouse or co-head and other adult members of the family

(a) Include under this paragraph the annual income of individuals under the age of 18 who have entered into a lease under state law. (They will be either the head, spouse or co-head.) Such persons are sometimes referred to as emancipated minors (e.g., a person under the age of 18 who is married). However, if an emancipated minor is residing with a family as a member other than the head, spouse or co-head, the individual would be considered a dependent and would be covered by paragraph (2) below.

(b) Count only the first $480 in earnings of a full-time student over the age of 18 who is not the head, co-head or spouse. See Figure 3-1. Note that all of the full-time student's unearned income is counted.

(2) Unearned income of children under the age of 18 who are members of the family. (This is any income that is not employment income.) They will be listed as dependents on the 59 Data Requirements. Also include any unearned income of:

(a) children temporarily absent due to placement in a foster home.

(b) children who are away at school but who live with the family during school recesses.

NOTE: Paragraph 3-25 clarifies that when more than one family shares joint custody of a child and they both live in assisted housing, only one family can claim the dependent allowance. The family that counts the dependent allowance also counts the unearned income of the child. The other family neither claims the dependent allowance nor counts the unearned income of the child.

(3) Income of Temporarily Absent Family Members who are still considered Family members. Read paragraph 3-17 and consult with the family to determine whether the individual should be considered a family member. (If this individual is considered a family member, then she/he would be listed on the 59 Data Requirements.) NOTE: The head, spouse or co-head must always be listed on the 59 Data Requirements, even if they are temporarily absent.

(4) Income of Persons Permanently Confined to a Hospital or Nursing Home. Read paragraph 3-18 and consult with the family to determine whether the individual should be considered a Family member. (If this individual is considered a Family member, then she/he would be listed on the 50059 Requirements). NOTE: Such persons may not be the Head, Co-head or Spouse.

b. Do Not count the income of the individuals listed below. These individuals are not considered members of the Family. (But see paragraph 2-18, Determining Unit Size at Move-in. Such persons are considered when determining unit size for the household.) Do not count:

(1) Any income of a live-in-aid/attendant. (See the definition in Exhibit 2-1 of Handbook 4350.3 which expands upon the definition of "live-in aid" in 24 CFR 812.2, 215.1, and 236.2 as found in Exhibit 3-1.)

(2) Any income of a guest. Friends or relatives who visit for short periods of time are not considered members of the Family. See also paragraph 13, General Restrictions, of the Model lease. This paragraph states that the tenant agrees to permit other individuals to reside in the unit only after obtaining the prior written approval of the Landlord.

(3) Any income of a foster child or foster adult. Foster adults are considered to be individuals with disabilities, unrelated to the tenant family, who are unable to live alone.

FIGURE 3-1

Whose Income is Counted?

(NOTE: All persons residing in the unit must be listed on the 59 Data Requirements, but not all persons residing in the unit are members of the Family (e.g., live-in

attendants; foster children and foster adults are not members of the family).

Members	Employment Income	Other Income (including income from assets)
Head	Yes	Yes
Spouse	Yes	Yes
Co-Head	Yes	Yes
Other Adult	Yes	Yes
Dependents		
-Child under 18	No	Yes
-Full time Student over 18 1/	1/	Yes
Non-members		
-Foster Child	No	No
-Foster Adult	No	No
-Live-in Attendant	No	No

1/ The earned income of a full-time student 18 years old or older who is not the head, co-head or spouse is excluded to the extent that it exceeds $480. (See Exhibit 3-5.)

Subsection B. Business Rules Used in Determining Annual Income

3-11. CALCULATION METHODOLOGIES TO USE IN DETERMINING ANNUAL INCOME

a. To annualize full-time employment, multiply:

(1) hourly wages by 2,080 hours

(2) weekly wages by 52

(3) bi-weekly amounts by 26

(4) semi-monthly amounts by 24

(5) monthly amounts by 12

b. To annualize income from other than full-time employment, multiply periodic amounts (hourly, monthly, bi-weekly, etc.) by the number of periods (hours, weeks, months) the family member expects to work.

c. Use an annual wage without additional calculations. For example, if a teacher is paid $25,000 a year, use $25,000 whether the payment is

made in 12 monthly installments, 9 installments or some other payment schedule.

d. Use current circumstances to project income, unless verification forms indicate that an imminent change will occur. See the example following this paragraph.

EXAMPLE of Anticipated Increase in Hourly Rate

February 1	Certification Effective Date
$7.50/hour	Current Hourly Rate
$8.00/hour	New rate to be effective March 15

(40 hours per week x 52 weeks = 2080 hours per year)

February 1 through March 15 = 6 weeks
6 weeks x 40 hours = 240 hours
2,080 hours minus 240 hours = 1840 hours
(check: 240 hours + 1840 hours = 2080 hours)

Annual Income is calculated as follows:

240 hours x 7.50 =	$ 1,800
1840 hours x 8.00 =	$14,720
Annual Income	$16,520

NOTE: Use the data entry procedures in Appendix 12, Data Entry Rules for the Owner and Tenant Data Requirements.

e. If a family indicates that income might not be received for the full 12 months (e.g., unemployment insurance benefit is expected to terminate), the owner should still annualize the income and advise the family to report any subsequent loss of the income so that rents may be recalculated. This way, the rent will be calculated correctly.

EXAMPLE of How to treat income that is expected to be received for less than 12 months.

Annual recertification is scheduled for 4-1-95. Tenant's unemployment benefit of $325 per month terminates on 10-1-95.

Count $3,900 as unemployment income ($325 x 12 months). This will give the tenant the correct monthly assistance payment. Instruct tenant to report loss of income when benefits are terminated. See also paragraph 5-11, Owner Responsibility for Processing Interim Recertifications.

f. If an agency is reducing a family's benefits to adjust for a prior overpayment (e.g., Social Security, SSI, AFDC or unemployment benefits),

count the amount that is actually provided after the adjustment.

EXAMPLE: Mr. Green's Social Security Payment of $250 per month is being reduced by $25 per month for a period of 6 months to make up for a prior overpayment. Count his Social Security income as $225 per month for the next 6 months and for the remaining 6 months as $250 per month.

3-12. VALUING ASSETS. In determining income from assets, owners must use the cash value of the asset (i.e., the amount the family would receive if the asset were converted to cash. Cash value is the market value of the asset minus reasonable costs that were or would be incurred in selling or converting the asset to cash. Expenses which may be deducted include:

a. Penalties for withdrawing funds before maturity

b. Broker/legal fees assessed to sell or convert the asset to cash

c. Settlement costs for real estate transactions

d. Loans on the asset (except see paragraph 3-21, income from a Business)

EXAMPLE: Mrs. Player owns a rental house. The market value is $100,000. She owes $60,000. The cost to dispose of this house would be $8,000. The owner would determine the cash value as follows:

Market Value		$100,000
Mortgage amount	- 60,000	
	40,000	
Cost of disposing of the asset (real estate commission, and other costs of sale)		- 8,000
Cash Value	32,000	

3-13. ASSETS OWNED JOINTLY. If assets are owned by more than one persone prorate the assets according to their percentage of ownership. If no percentage is specified or provided by state or local law, prorate the assets evenly among all owners.

EXAMPLE: Mrs. Wright is an assisted housing tenant. She and her daughter, Ms. Duncan, who lives 2,000 miles away, have a joint savings account. Assume that in this example that State law does not specify ownership. Even though either Mrs. Wright or Ms. Duncan could each withdraw the entire asset for her own use, count Mrs. Wright's ownership as 50% of the account.

NOTE: If an asset is not effectively owned by an individual, do not count it as an asset. See examples in Exhibit 3-4, paragraph B.6.

3-14. ASSETS CONVERTED TO TRUSTS. A trust is generally considered a legal arrangement regulated by state law in which one party holds property for the benefit of another. A trust can contain cash or other liquid assets or real or personal property that could be turned into cash. Trust assets are typically transferred to the beneficiary upon the death of the grantor. Chapter 3 recognizes two types of trusts, revocable and nonrevocable (irrevocable trusts). See Figure 3-2.

a. Revocable Trusts.

(1) The grantor of a revocable trust can change this type of trust as often as s/he wishes and, therefore, has access to this asset at any time.

(2) Count the trust as an asset under Exhibit 3-4.

EXAMPLE of a revocable trust

Mr. Childress establishes a trust of $60,000 in his daughter's name. (The daughter is not a member of the household.) Because it is revocable, he can modify this trust at any time and have access to it. For purposes of this example, the income is either reinvested into the trust or paid to his daughter. Treat this trust as a current asset. Even though Mr. Childress does not receive the income from this asset, he is required to report the cash value of the asset and the income the trust generates. Because it is still considered to be an asset owned by Mr. Childress, it is not considered an asset disposed of for less than fair market value.

b. Nonrevocable Trusts (irrevocable Trusts).

(1) This is a trust agreement that allows an individual to permanently transfer assets during his/her lifetime to someone else.

(2) Trusts which are not revocable by or under the control of any member of the family are not considered assets.

(3) Instead, the regulation requires that the actual income distributed to the tenant family from such a trust be counted when determining Annual Income. See Exhibit 3-5. (As with all income, this is the gross amount

received before taxes or other deductions.)

(a) As long as the trust exists, any income distributed from the trust to the tenant family must be counted as income.

(b) If there is no income distributed from the trust, then do not count any income from the trust (e.g., income from the trust that is reinvested into the trust).

(4) If an asset is disposed of for less than fair market value by being converted to a nonrevocable trust, assuming that no consideration is received or the consideration which is received is less than fair market value, then the owner must count such an asset for a period of two years in accordance with paragraph 3-16.

(a) In addition, any actual income distributed from the nonrevocable trust must also be counted as income under paragraph (3) above. Therefore, for a two-year period, the owner will consider this asset for purpose of income computation and, in addition, count actual income distributed from the nonrevocable trust to the tenant family.

(b) Following the two year period, the owner will count only the actual income distributed from the trust to the family.

EXAMPLE of a trust that is not revocable by or under the control of any member of the family, where the income is not distributed from the trust.

Mr. Charaf had $100,000, which he disposed of by creating a nonrevocable trust controlled by his son. (Mr. Charaf's son does not live with him.) The trust produced income of $8,000 in 1995, which was reinvested into the trust. Do not count the $8,000 as Annual Income because Mr. Charaf did not receive any income from this trust. Do not count the cash value of the trust ($100,000) as a current asset. Instead, since Mr. Jones disposed of this asset for less than fair market value, count the asset for a period of two years in accordance with paragraph 3-16. The owner would follow paragraph 3-12 in valuing this asset.

EXAMPLE of a trust that is not revocable by or under the control of any member of the family. The

grantor receives the income distributed from the trust.

Ms. Bouchard has established, within the past two years, a nonrevocable trust in the amount of $35,000 that no one in the tenant family can control. Income from this trust is distributed to Ms. Bouchard. The actual income distributed from

continued

Example continued - nonrevocable trust

this trust would be counted in determining Ms. Bouchard's annual income. For example, in 1996 $3,500 was distributed. Therefore, the owner would count this $3,500 as annual income to Ms. Bouchard. Also, because Ms. Bouchard disposed of an asset for less than fair market value, the owner must count this disposition in accordance with paragraph 3-16. The owner will determine the cash value of the asset under paragraph 3-12 and will count it as an asset disposed of for less

than fair market value for a period of two years. It may appear that this procedure would require the owner to double-count this asset. But, first the owner counts the asset which was disposed of for a period of two years and, concurrently, the owner counts the actual income from the current holding (the nonrevocable trust).

EXAMPLE of a trust that is not revocable by or under the control of any member of the tenant family, where the income is distributed to someone outside the tenant family.

Ms. Rockland is a sole member of a tenant family. In 1995 she established a nonrevocable trust in the amount of $50,000 that she cannot control. She did not receive any compensation for this asset. In 1995, Ms. Rockland's son, who lives in another city, received $7,000 which was distributed from the trust. Do not count the $7,000 as income to Ms. Rockland, because she did not receive it. However, do count the asset as being disposed of

FIGURE 3-2

TRUST FUNDS - GRANTOR

Revocable	Nonrevocable (irrevocable)
TREAT AS AN ASSET	TREAT AS INCOME
The grantor can change this trust as often as	Under a nonrevocable trust, The grantor cannot gain

s/he wishes and can have access to this asset at any time. Generally, upon the death of the grantor, the asset is transferred to the beneficiary.

Treat this trust as an asset of the grantor under Exhibit 3-4, no matter who receives the income from this asset. Income received by the beneficiary will be counted as income.

access to this trust.

Do not treat this trust as an asset. Count the actual income distributed to the family from the trust in accordance with paragraph A.12 of Exhibit 3-5. Also,

count the original asset (which was placed into trust) as an asset disposed for less than fair market value in accordance with paragraph 3-16.

Nonrevocable (irrevocable)

TRUST FUNDS - BENEFICIARY

Revocable Trust

Count the actual income received

Nonrevocable Trust

Count the actual income received

Regulatory reference: 24 CFR Parts 812.102, 215.1 and 236.2 state:

> "(In cases where a trust fund has been established and the trust is not revocable by or under the control of any member of the family, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund should be counted when determining Annual Income.)"

Regulatory Reference: 24 CFR Parts 813.102, 215.1 and 236.2 state:

> In determining Net Family Assets, Owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or [recertification], as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than

fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

3-15. IMPUTED INCOME FROM ASSETS. (This paragraph does NOT apply to families receiving ONLY BMIR assistance.) If the net family assets exceed $5,000, Annual Income must include the greater of:

a. The actual income from assets

or

b. An imputed income from assets. Owners must impute income by multiplying total net family assets by the passbook rate specified by HUD. Until further notice, owners must use a rate of 2 percent (.02).

Figure 3-3

CALCULATING INCOME FROM ASSETS

Type of Asset 1/	TOTALS	Cash Value of Asset	Actual Income Per Year
Checking Account		$ 300	$ 0
Savings Account		2,000	115
Certificates of Deposit		10,000	986
Rental Property Currently Vacant		15,000	0
TOTALS		$ 27,300	$ 1,101

Since total assets in this example exceed $5,000, the owner must calculate the imputed income. In this example, the owner would multiply the Net Family Assets of $27,300 by .02, totaling $546. The owner will enter this amount as the imputed income on assets in the 59 Data Requirements. The income from assets to be included in Annual Income will be $1,101 in this example since the actual income received is greater than the imputed income on net family assets ($1,101

is greater than $546.).

1/ These are the assets owned by the entire Family.

3-16. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE WITHIN TWO YEARS OF THE EFFECTIVE DATE OF THE CERTIFICATION OR RECERTIFICATION, including assets put into a nonrevocable trusts. (This paragraph does NOT apply to families receiving only BMIR assistance.)

NOTE: This paragraph applies to family assets and business assets.

a. Applicants and tenants must declare whether an asset has been disposed of for less than fair market value at each certification and recertification.

b. Assets are considered to be disposed of for less than fair market value if the cash value of the disposed asset exceeds the gross amount the family received by more than $1,000.

c. In such cases, owners must include the whole difference between the cash value of the asset and the amounts received. If the difference is less than $1,000, ignore it.

NOTE: Use cash value if there are costs incurred in disposing of the asset. See paragraph 3-12 on how to determine cash value.

d. Do consider:

(1) Assets disposed of for less than fair market value when they are placed into a nonrevocable trust (assuming that no consideration is received or the consideration which is received is less than cash value) See also paragraph 3-14b for a further discussion of nonrevocable trusts. NOTE: Amounts received through settlements or judgments that are placed into nonrevocable trusts on behalf of a member of the family are not considered as assets disposed of for less than fair market value. EXAMPLE: Mr. and Mrs. Taylor's daughter, Amanda, was injured in a car accident. She received a settlement of $300,000 to compensate her for injuries and future loss of income. The attorney handling the case set up a nonrevocable trust of $300,000 for the benefit of Amanda. This trust is not under the control of any member of the tenant family. Count only the actual income distributed from the trust to Amanda.

(2) Business assets that are no longer part of an active business that are disposed of for less than fair market value. (Business assets are excluded from net family assets only while they are part of an active business.)

e. Do NOT consider assets disposed of for less than fair market value as a result of:

(1) foreclosure

(2) bankruptcy, or

(3) a divorce or separation agreement if the applicant or tenant receives important consideration not measurable in dollars.

EXAMPLES OF ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE

EXAMPLE: On 7/5/95, Mr. and Mrs. Clark deeded their house to their daughter, who paid them $5,000 for it. Compute the cash value of the house as described in paragraph 3-12, Valuing Assets. On any recertification or certification effective on or before 7/4/97, count as an asset the difference between the cash value and the $5,000 the Clarks received.

continued--

EXAMPLES OF ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE--Continued

EXAMPLE: Mrs. Roulliard sells her home and receives $100,000 after the costs of sale and mortgage pay-off. She places the entire amount into a nonrevocable trust, which her children control and she does not receive any consideration. Count $100,000 as an asset for two years, because it is an asset disposed of for less than fair market value.

NOTES: 1) If the trust distributes income to Mrs. Roulliard or to anyone in the tenant family, then the owner also will count the actual income distributed in determining the family's total annual income.

2) However, had Mrs. Roulliard placed the proceeds into a revocable trust, it would have been counted as an asset as long as the trust exists (and the 2-year requirement for counting assets disposed of for less than fair market value would not apply). See paragraph 3-14.

EXAMPLE: Mrs. Pointdexter had $8,000 in the bank. She decided to give half of it to her daughter and to keep the other half. The fair market value of the disposed of asset is $4,000, which exceeds the amount she received by more than $1,000 ($4,000 minus $0 equals $4,000). Therefore, the owner is required to count the $4,000 she gave to her daughter as an asset for a period of two years. The other

EXAMPLES OF ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE - CONTINUED

EXAMPLE: Mr. Grant had a stamp collection valued at $999 which he gave to his son. Since the fair market value of the stamp collection is less than $1,000, the difference between the fair market value and the amount received will be less than $1,000. Therefore, this would not be considered an asset disposed of for less than fair market value because its value is less than $1,000.

EXAMPLE: Mrs. Templeton had mutual funds with a market value of 1,001, which she gave to her daughter. Since the difference between the market value ($1,001) and the amount she received ($0) is $1,000 or greater, the owner must count $1,001 in mutual funds as an asset for two years. (Assume for this example that there were no commissions that Mrs. Templeton had to pay since she paid them when she purchased the shares in the fund and that there are no fees for closing the account.)

Regulatory Reference: 24 CFR Parts 813.102, 215.1 and 236.2 state:

> In determining Net Family Assets, Owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or [recertification], as applicable, in excess of the consideration received therefor. In the case of a

Regulatory Reference continued:

> disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

3-17. INCOME OF TEMPORARILY ABSENT FAMILY MEMBERS. Owners must decide if the absent person still qualifies as a Family member. If the individual does, he or she must be listed on the 59 Data Requirements and all of

his/her income must be included, even if part of it is not available to the Family. If the individual does not qualify as a Family member, he/she is not listed on the 50059 Data Requirements and his/her income must not be counted.

NOTE: The owner must count the income of the head and any co-head or spouse if they are temporarily absent.

EXAMPLES OF INCOME OF TEMPORARILY ABSENT FAMILY MEMBERS

EXAMPLE A Family member accepts temporary employment in another location and retains a portion of the income to cover living expenses in the new location. The full amount of the income must be included in annual income.

EXAMPLE: A Family member is temporarily confined to a hospital or nursing home. All income received by or for that person must be included. (See paragraph 3-17 for individuals permanently confined.)

EXAMPLES OF INCOME OF TEMPORARILY ABSENT FAMILY MEMBERS continued--

EXAMPLE: A son or daughter goes on active military duty and retains the parents' home as a legal residence. If this person leaves dependents or a spouse in the unit, the military pay must be included in annual income. (Except pay to a family member exposed to hostile fire is excluded from Annual Income. See Exhibit 3-5.) If no dependents or spouse are left in the unit, the son or daughter should not be considered a Family member and the owner must not include that person's income in annual income, nor may the owner include any adjustments to Annual Income for that individual under Section 3 of this Chapter (paragraphs 3-24 through 3-29).

3-18. INCOME OF PERSONS PERMANENTLY CONFINED TO A HOSPITAL OR NURSING HOME. These persons may NOT be named as family head, spouse or co-head. The family may choose to:

a. Include the absentee individual as a member of the Family and thus include income attributable to such individual as income and take advantage of any allowances to Annual Income for which the individual would qualify; or

b. Exclude the absentee individual as a member of the Family and thus not include the income attributable to such individual and not take any of the deductions for which the individual would

qualify.

Subsection C. Explanations of Certain Types of Income

3-19. LUMP SUM RECEIPTS. (These are one-time receipts which are counted as assets.)

a. Lump sum receipts include inheritances, capital gains, one-time lottery winnings, victim's restitution; settlements on insurance claims (including health and accident insurance; worker's compensation; and personal or property losses); and any other amounts that are received in a one-time (lump sum) payment.

b. Count as an asset any amount that is deposited into a checking or savings account or other asset listed in paragraph A of Exhibit 3-4. The owner will obtain this information at the regularly scheduled recertification. However, see paragraph 5-8, Tenant's Obligation to Report Interim Changes. It is possible that a lump sum that is converted to assets may be large enough to require the Family to report an increase in income before the next regularly scheduled annual recertification. But this requirement to report an increase in income before the next annual recertification would not apply if the income from the asset were not measurable by the tenant (e.g., U.S. Savings Bonds, gems, stamp collection).

EXAMPLES OF LUMP SUM ADDITIONS TO FAMILY ASSETS (ONE-TIME PAYMENT):

EXAMPLE: Ms. Wettig won $500 in the lottery and received it in one payment. Do not count the $500 as income. At Ms. Wettig's next annual recertification, she will report all of her assets.

EXAMPLE: Ms. LaRue won $25,000 in the lottery. She buys a car with some of the money, and puts the remaining amount of $14,000 in the bank. Ms. LaRue receives her first bank statement and notices that the income on this asset is $52 per month. She would be required under paragraph 5-8 to report this increase in income because the Family has experienced a cumulative increase in income of more than $40 per month. The owner would perform an interim recertification and count the greater of the actual or imputed income on this asset (since the net family assets are greater than $5,000).

3-20. DELAYED PERIOD RECEIPTS (DEFERRED PERIODIC RECEIPTS). Count delayed periodic receipts as Annual Income. These are amounts received in one amount but were

supposed to be paid periodically (e.g., unemployment benefits). Such receipts are provided in one amount because of circumstances such as processing delays.

NOTE: Delayed periodic payments of supplemental security benefits and social security benefits that are received in a lump sum are excluded from Annual Income. See Exhibit 3-5, paragraph B.15.

Periodic is commonly defined as:
recurring at regular intervals;

intermittent; occurring from time to time

a. Typically, delayed periodic receipts follow periods of reduced income. Depending on individual circumstances, the tenant may or may not request an interim recertification for the period in which s/he is experiencing reduced income. The owner's actions on treating the delayed periodic receipt will vary depending on whether or not the owner performed an interim recertification when the tenant experienced a reduction in income.

(1) If the owner processed an interim recertification for the period in which the resident had reduced income, the owner must process another recertification when the resident reports the delayed periodic receipt. See the example at the end of this paragraph. See also paragraph 5-12 for the effective date of interim adjustments.

NOTE: The tenant is obligated by the lease to report certain changes in Family income and composition that occur between regularly scheduled recertifications. (See paragraph 5-8).

(2) If the resident did not request an interim recertification for the period in which the Family had reduced income, the owner should not include the delayed periodic receipt in Annual Income. See the example at the end of this paragraph.

b. If the delayed periodic receipt was intended for a period(s) during which the individual was not living in assisted housing, do not treat the amount as income. Instead treat the amount as a one-time (lump sum) receipt under paragraph 3-19.

FIGURE 3-4

DISTINGUISHING BETWEEN DELAYED PERIODIC RECEIPTS AND LUMP SUM RECEIPTS

Ask: Was the amount received

supposed to be paid in periodic amounts?

YES

Treat the delayed periodic receipt as income under paragraph 3-20.

But if the delayed periodic receipt covers a period during which the individual was not living in assisted housing, treat this receipt as a one-time lump sum, not as income.

NO

The tenant will report all assets at the next regularly scheduled annual recertification. This will include any amount from the lump-sum payment that is placed into an account or other asset listed in Exhibit 3-4. (But see paragraph 5-8.)

EXAMPLE OF HOW TO TREAT
DELAYED PERIODIC RECEIPTS

NOTE: See paragraph 5-11 of Handbook 4350.3, Owner Responsibility for Processing Interim Recertifications.

Tenant loses her job on 5/20/95. Unemployment benefits are delayed. On 7/10/95, the tenant receives a delayed periodic receipt of $600 for 5/21/95 through 7/7/95. Beginning 7/8/95, the tenant receives $100 per week in unemployment benefits.

EXAMPLE #1: THE OWNER PROCESSES AN INTERIM RECERTIFICATION TO REFLECT THE LOSS OF INCOME BEFORE RECEIPT OF THE UNEMPLOYMENT

BENEFITS

After the tenant receives the delayed periodic payment in July, the owner processes an interim recertification to reflect the payment of the unemployment benefits. The interim recertification is effective 9/1/95. See the computation of Annual Income below. Note that the owner annualizes income, as required by paragraph 3-11, and reminds the tenant that s/he must come in for an interim recertification when s/he gets a job.

$ 600	delayed periodic receipt (count the actual amount received)
+ 5,200	$100/week unemployment (Annualize the unemployment benefit)
$ 5,800	Annual Income from Unemployment

EXAMPLE #2: THE OWNER DOES NOT PROCESS AN INTERIM RECERTIFICATION TO REFLECT THE LOSS OF INCOME BEFORE RECEIPT OF THE UNEMPLOYMENT BENEFITS

Example 2 continued--

After the tenant receives the delayed periodic receipt in July, the owner processes an interim recertification. The interim is retroactive to 6/1/95. Annual Income is determined as follows: $5,200 (52 weeks times $100 per week.)

3-21. INCOME FROM A BUSINESS. Include:

a. Salaries paid to adult family members;

b. Cash or assets withdrawn by any family member - except to the extent that the withdrawal is the reimbursement of cash or assets the family invested in the business; and

c. Net income from the business. When computing net income, owners:

(1) May deduct:

(a) business expenses;

(b) interest payments on loans (unless the expenses or loans are for business expansion or capital improvement); and

(c) depreciation computed on a straight-line basis.

NOTE: If net income from a business is negative, it would be shown as zero income. It would not be used to offset other income of the Family.

(2) May NOT deduct:

(1) principal payments on loans;

(2) expenses for business expansion; or

(3) outlays for capital improvements.

3-22. ALIMONY AND CHILD SUPPORT.

a. For Alimony Received by a Member of the Family. Count the amount specified in a divorce settlement or separation agreement unless the applicant:

(1) Certifies the income is not being provided; and

(2) Has made reasonable effort to collect the amounts due, including filing with courts or agencies responsible for enforcing payments.

NOTE: Child support paid by a private source to the state child support enforcement agency can be passed on to the Family in different ways. These amounts must be counted as Annual Income. In some states this will be shown as part of the AFDC grant and in others it will be shown as a separate "pass-through" amount.

EXAMPLES:

EXAMPLES:

Standard Grant	$427/month
Child Support	100/month
TOTAL RECEIVED	$527/month

Standard Grant	$427/month
$50 "pass-through"	50/month
TOTAL RECEIVED	$477/month

b. Alimony or child support paid by a member of the Family is counted as income, even if it is garnished from wages.

EXAMPLE: Mr. Graevette pays $150 per month in child support. It is garnished from his monthly wages of $950. After the child support is deducted from his salary, he receives $800. The owner must count $950 as Mr. Graevette's monthly income.

3-23. INCOME RECEIVED BY A RESIDENT OF AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED OR FOR THE DEVELOPMENTALLY DISABLED (ICF/MR/DD). This not a HUD term. This title reflects the terminology used by state departments of mental health, developmental disabilities and substance abuse for facilities which receive Medicaid funds on behalf of their residents. Where Medicaid pays the ICF/MR/DD directly for services and rent and pays the resident only a small personal

allowance (e.g., $50 per month), determine annual income as follows:

a. Add the amount being paid directly to the facility on behalf of the tenant;

b. Add all income the tenant receives from sources other than SSI (e.g., wages, training workshops, interest income, etc,) that is not excluded from income by Exhibit 3-5.

c. Subtract the personal allowance the individual receives;

NOTE: SSI is reduced when the individual earns above a specified amount. If SSI is reduced, then the individual may request an interim recertification.

SECTION 3. Adjusted Income

NOTE: This section does NOT apply to families receiving only BMIR assistance.

3-24. DEFINITION OF ADJUSTED INCOME. Adjusted income is annual income minus the allowances listed below. These allowances are explained in more detail in paragraphs 3-24 through 3-29.

a. All families are eligible for any of the following allowances which are applicable to their circumstances:

(1) $480 for each dependent as defined in paragraph 3-25.

(2) Child care expenses as defined in paragraph 3-26.

(3) Handicapped/Disability assistance expenses as defined in paragraph 3-27.

b. If the head, co-head or spouse or sole member is age 62 or older or disabled or handicapped, two additional allowances of:

(1) $400 per Family

(2) Medical expenses. See paragraph 3-28.

NOTE: A family may NOT designate a family member as head or co-head solely to become eligible for these additional benefits. The remaining member of a Family listed in paragraph b who is not 62 or older, handicapped or disabled is not eligible for this allowance.

3-25. ALLOWANCE FOR DEPENDENTS. Owners must deduct $480 for each dependent. A dependent is any Family member who:

a. Is NOT a head, co-head, spouse, foster child, foster adult, live-in attendant, unborn child, or

a child who has not yet joined the Family even if legal custody is currently being pursued.

b. Is:

(1) Younger than 18. (It includes children who normally live in the unit but who have been placed temporarily in foster care outside the home.)

NOTE: When more than one family shares joint custody (e.g., 50/50 custody) of a child and they both live in assisted housing, only one family can claim the dependent allowance for that child. If there is a dispute about which family should claim the dependant allowance for the child, the family should refer to available documentation (e.g., court order; IRS return showing which household claimed the child for income tax purposes).

OR

(2) Handicapped or disabled, as defined in Exhibit 2-1 of Chapter 2 of Handbook 4350.3.

OR

(3) A full-time student. The student must carry a subject load considered full-time by the educational institution attended. The institution may be a vocational school offering a diploma or certificate or an institution offering a high school diploma or college degree.

3-26. ALLOWANCE FOR CHILD CARE EXPENSES Applies ONLY to reasonable amounts paid for care of children (including foster children) UNDER AGE 13.

a. The following amounts must NOT be deducted as child care expense:

(1) Child support payments for children who do not live in the unit;

(2) Expenses for the care of a family member with handicaps or disabilities who is age 13 or older. (Paragraph 3-27 explains how to treat these expenses.)

b. Owners must deduct child care costs if:

(1) Such care will enable a family member to: attend vocational or academic courses; work; or seek new employment after losing a job.

(2) No adult family member capable of providing child care is available during the hours the care is needed. This determination is made by the family.

(3) The amount deducted is reasonable for the hours and type of care provided.

(4) The amount is NOT paid to a family member living in the household.

(5) The amount is not paid or reimbursed by an agency or individual outside the household.

c. If the individual or organization providing the child care also cares for other family members, the owner must prorate the total cost and allocate a specific amount for the care of children under age 13. The proration must be reasonable in terms of the hours and type of care provided and the number of people cared for.

d. Limitation on Expenses. Any expense allowed to enable a family member to work cannot exceed the employment income derived because the care is available. (If both child care and handicap/disability assistance are needed to enable a family member(s) to work, see paragraph 3-27f.) There is no such limitation on child care expenses for seeking work or going to school.

NOTE: For full-time students who pay for child care while they work, the maximum child care allowance is $480.

EXAMPLE: If someone goes to work and goes to school, then the owner will have to pro-rate the child care expense for each activity because the limitation in paragraph d may apply to the portion of child care that permits the individual to work.

Ms. Bowren works 40 hours per week and then goes to school several evenings a week. She earns $8 per hour. Ms. Bowren pays Ms. Reilly $2.50 per hour for babysitting her school-age children after school. Ms. Reilly watches the children from 3:30 until 6:00 for 2 nights a week while Ms. Bowren works and from 3:30 until 9:00 for 3 nights when Ms. Bowren goes to school. The child care expenses are pro-rated as follows:

Ms. Bowren pays Ms. Reilly $25.00 while she is at

work (2 1/2 hours x $2.50 x 5 days per week) and $22.50 while she is at school (3 hours x $2.50 x 3 days), for a total of $47.50. The child care that is attributed to her work ($25) is limited to Ms. Bowren's employment income that is derived because of the child care, but the child care that is attributed to her going to school ($22.50) is not limited by her employment income. Since the child care that permits Ms. Bowren to work ($25) is less than her employment income that is derived because of the child care ($100) [$8.50 x 2 1/2 x 5]), the full amount of the child care expenses may be included in the child care allowance. The total child care allowance for Ms. Bowren is $47.50.

3-27. ALLOWANCE FOR HANDICAP/DISABILITY ASSISTANCE EXPENSES. This paragraph applies ONLY IF a family member is HANDICAPPED or DISABLED as defined in Exhibit 2-1 of Chapter 2 of this handbook 4350.3.

NOTE: The Department intends to revise the regulations to refer to the term "disabled" instead of the term "handicapped". Where it is essential for consistency with existing HUD regulations or laws, this chapter will refer to "handicapped" but wherever possible it will use the preferred term, "disabled". Where some regulations have been updated and others have not, this chapter will refer to both terms, in an attempt to use the preferred term as much as possible, where such term is used in the governing statutes and regulations.

a. The allowance is the LESSER of:

(1) The amount by which total expenses for handicap/disability assistance exceed 3 percent of annual income; OR

(2) The employment income adult members will earn because the handicap/disability assistance is available. (See paragraph 3-27f for more guidance on how to impose this employment ceiling.)

b. Handicap/disability assistance expenses include attendant care and auxiliary apparatus expenses for a family member with a handicap or disability that are:

(1) Necessary to enable a family member (including the member with a handicap or disability) to be employed;

(2) Anticipated to be paid by the family in the 12 months following the effective date of the certification/recertification;

(3) NOT paid or reimbursed by an outside source such as insurance, medicare or grants by a state agency or charitable organization; and
(4) NOT paid to a family member living in the household.

NOTE: Family member does not include foster child, foster adult, live-in attendant or children of these persons.

c. Attendant care includes, but is not limited to, home medical care, nursing services, housekeeping and errand services, interpreter for persons who are deaf or hard of hearing, and reader for persons with visual disabilities.

d. Auxiliary apparatus includes, but is not limited to, wheelchairs, reading devices for persons with visual disabilities and equipment added to cars and vans to permit their use by the family member with a disability. These are items that are paid for by the applicant/tenant. This is not to be confused with "auxiliary aids" which are provided by owners, where necessary, under Section 504 of the Rehabilitation Act of 1973. (See Chapter 2 for these requirements).

NOTE: The term "auxiliary apparatus" is not defined by regulation. Exhibit 2-2, paragraph c, defines the term, "auxiliary aids", which are items that owners are required to provide, where necessary, to assure effective communication with individuals with disabilities under Section 504 of the Rehabilitation Act of 1973. Although the term "auxiliary aids" under Section 504 cannot be used to define "auxiliary apparatus", because that regulation applies only to Section 504, it may be useful information to HUD Field Office staff, Contract Administrators and owners. Note that the emphasis of paragraph c of Exhibit 2-2 is on communication aids which owners are required to provide. Therefore, when the referenced paragraph says that hearing aids, TDD's and seeing eye dogs [assistive animals] are personal items which owners are not required to provide, they could still be considered auxiliary apparatus for the purpose of Chapter 3's discussion of handicap/disability assistance expenses.

(1) Example: Include payments on a specially-equipped van to the extent they exceed the payments that would be required on a car purchased for transportation of a person who does not have a disability.

(2) The cost of maintenance and upkeep of an auxiliary apparatus is considered a handicap

disability assistance expense (e.g., the veterinarian costs and food costs of a service animal; the cost of maintaining the equipment that is added to a car but not the cost of maintaining the car).

(3) If the apparatus is NOT used exclusively by the person with a disability, the owner must prorate the total cost and allow a specific amount for handicap/disability assistance.

e. If the individual or organization providing attendant care for the member with a disability also provides other services for the family, the owner must prorate the total cost and allow a specific amount for attendant care. The allocation must be reasonable in terms of the hours and type of care (e.g., specialized medical care costs more than housekeeping services).

f. When imposing the employment income ceiling required by paragraph 3-27a(2), owners must consider the following:

(1) If the handicap/disability assistance enables more than one person to be employed, owners must consider the combined incomes of those persons.

EXAMPLE: If an auxiliary apparatus enables a person with a disability to be employed and frees another person to be employed, the allowance cannot exceed the combined incomes of those two people.

(2) If child care enables a person(s) to work and handicap/disability assistance is also needed to enable that person(s) to work, the portion of employment income used to justify child care allowances for employment purposes may NOT be used to also justify handicap/disability assistance allowances.

EXAMPLE: If the family pays $100/week for child care and $100/week for handicap/disability assistance and the care and assistance enable an adult to work for $150/week, the owner must not allow the full cost of both types of care. The total handicap/disability assistance allowance and child care allowance for employment purposes may not exceed $150/week.

3-28. ALLOWANCE FOR MEDICAL EXPENSE. This allowance is permitted ONLY for Families whose HEAD, CO-HEAD, SPOUSE, or SOLE MEMBER is 62 or OLDER, HANDICAPPED

OR

DISABLED.

a. The maximum amount of this allowance varies by whether the family has expenses for handicap/disability assistance.

   (1) If the Family has no handicap/disability assistance expenses, the allowance for medical expenses is the amount by which total medical expenses exceed 3 percent of annual income.

   (2) If the Family has expenses for both handicap/disability assistance and medical care, special calculations are required to compute this allowance. These calculations are explained in paragraph 3-29.

b. "Total medical expense" includes all medical expenses that are:

   (1) anticipated to be paid by the Family in the 12 months following the effective date of the certification/recertification AND

   (2) NOT paid by an outside source--e.g., insurance, medicare or grants by a state agency or charitable organization.

c. Third parties are sometimes hesitant to estimate future medical needs. To address this, anticipated medical expenses may be based on the expenses the Family paid in the 12 months preceding the effective date of the certification/recertification LESS any one-time expenses that are not expected to reoccur.

EXAMPLE:

Mr. and Ms. Crumpler had a total of $2,932 in medical expenses last year. $932 of this amount covered Mr. Crumpler's gall bladder surgery. The owner could use these past expenses as a basis for determining the Crumpler's anticipated medical expenses by deducting the one-time expenses related to the gall bladder surgery (i.e., $2,983 minus $932 equals $2,000).

In a continuation of this example, Ms. Crumpler paid $850 for unexpected medical services in the sixth month of the recertification period. Because these costs were not considered in determining their medical expenses at their last annual recertification, the Crumplers should report this additional medical expense

when they incur it. Once they report this expense, the owner will perform an interim recertification in accordance with Chapter 5.

continued--

Example continued--

The interim recertification will consider these expenses through the balance of the recertification period. If it is a one-time expense, it would not be used at the next annual recertification to estimate their future medical expenses, unless they are continuing to make payments on it.

Regulatory definition of Medical Expenses (24 CFR Parts 215.1, 236.2 and 813.102):

Those medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance.

d. If the special apparatus or attendant care for a family member with a disability enables the member with a disability or any other family member to work, do NOT count them as medical expenses. Instead, count the expense as a handicap/disability assistance expense under paragraph 3-27.

e. Figure 3-5 provides guidance to assist HUD offices, Contract Administrators and owners in determining which expenses should be considered as medical expenses. There is no specific regulatory or statutory guidance on what is considered medical expenses.

(1) In general, Figure 3-5 lists expenses associated with the diagnosis and treatment of disease. It includes the services and recommended treatments of recognized health care professionals. It also includes medically needed equipment and assistive animals and the upkeep of both. Examples of equipment include: hearing aids, walkers, artificial limbs, eyeglasses.

(2) The following would not be considered medical expenses:

(a) services or procedures that are not medically necessary:

(b) services; aids; apparatus that cannot be construed as medical expenses (i.e., readers

or interpreters for persons with visual disabilities or for persons who are hard or hearing or deaf; housekeeping services).

NOTE: These expenses may be handicapped/disability assistance expenses in paragraph 3-27.

3-29. SPECIAL CALCULATIONS FOR FAMILIES HAVING BOTH MEDICAL AND HANDICAP/DISABILITY ASSISTANCE EXPENSES. (These are families whose Head, Co-head or Spouse is either 62 years of age or older, handicapped or disabled.)

a. If a family has both medical expenses and handicap/disability assistance expenses, the amount deducted is limited to the amount by which the total of the two expenses exceeds 3 percent of annual income.

NOTE: Handicap/disability assistance expenses cannot exceed the income generated by the expenses.

b. The 3 percent of annual income must first be deducted from handicap/disability assistance expenses and any remainder then deducted from medical expenses.

EXAMPLE #1: Family has $1000 in medical expenses and $500 in expenses for handicap assistance. $4000 of annual income is derived because the handicap care is available. Annual income is $20,000. 3 percent of annual income is $600.

Total Handicap/Disability Assistance Expense:	$ 500
	- 600
Minus 3% of Annual Income:	$(100)
Handicap/Disability Allowance	$ 0
Total Medical Expense:	$1000
Minus: Balance of 3% of annual income	- 100
Allowable Medical Expense	900

EXAMPLE #2: Family has $2000 in medical expenses and $3500 in expenses for handicap/disability assistance. $2400 of annual income is derived because the handicap/disability assistance is available. Annual income is $20,000. 3 percent of annual income is $600.

Total Handicap Assistance Expense:	$3500
Minus: 3% of annual income	- 600
	2900

FIGURE - 3-5
EXAMPLES OF MEDICAL EXPENSES

MEDICAL EXPENSES

Services of
recognized health care professionals

Services of health care facilities;
Laboratory fees, X-rays and
diagnostic tests, blood, oxygen

Medical insurance premiums

Prescription and Non-prescription
medicines

Transportation to/from treatment

Medical care of permanently
institutionalized family member IF
his/her income is included in Annual
Income

Dental treatment

Eyeglasses, contact lenses

Hearing aid, wheelchair, walker,
artificial limbs
Attendant care or periodic

Attendant care or periodic medical
care

Payments on accumulated medical
bills
MAY INCLUDE 1/

Services of physicians, nurses,
dentists, opticians, mental health
practitioners, chiropractors

Hospitals, health maintenance
organizations (HMO's), out-patient
medical facilities, and clinics

Expenses paid to an HMO; medicaid
insurance payments which have not
been reimbursed

aspirin; antihistamine;

Actual cost (e.g., bus fare) or if driving by car, a mileage rate based on IRS rules or other accepted standard

Fees paid to the dentist; x-rays; fillings, braces, extractions, dentures

Purchase and upkeep (e.g., additional utility costs to tenant because of oxygen machine [tenant paid utilities only])

Nursing services, assistive animal and its upkeep

Scheduled payments

1/ or any other medically-necessary service, apparatus or medication, as documented by third party verification.

FIGURE 3-6 CAN THE EXPENSES ATTRIBUTED TO AN INDIVIDUAL BE CONSIDERED IN DETERMINING ALLOWANCES?

NOTE: (Some allowances apply only to certain households. See paragraph 3-24.)

INDIVIDUAL	ALLOWANCE			MEMBER OF FAMILY
	Dependent	Child Care	Hand Asst. Exp.	Med. Exp.
Head/Co-Head			YES	YES
Spouse			YES	YES
Other Adult			YES	YES
Dependent - (One of the following who is not the Head, Co-head or Spouse) - Age 17 or younger - Handicapped or disabled - Full time student,	YES/1	YES/2	YES	YES

regardless of age
- child pending adoption and lives in unit

Foster Child	YES/2
Foster Adult	
Unborn Child /3	
Child Pending /3 Adoption but does not live in unit	
Live-in Attendant	

1/ Persons under the age of 18 who are the Head, Co-head or Spouse are not eligible for the dependent allowance.
2/ The child care allowance applies only to children under the age of 13.
3/ Unborn Children and children who are in the process of being adopted (who do not live in the unit) are considered household members for purposes of determining unit size and income limits but do not qualify the family for any adjustments to income nor is their unearned income counted in determining annual income.

3.29.A EXCLUSION OF INCOME RECEIVED UNDER TRAINING PROGRAMS IN MULTIFAMILY HOUSING PROGRAMS.

a. Background. The Department recognizes the need to prepare tenants receiving rent subsidy in multifamily projects for long-term self-sufficiency, independence, and increased economic opportunity, to aid both welfare reform and Neighborhood Networks.

In an effort to encourage and assist tenants toward long-term upward mobility, we provide clarity on the application and interpretation of the regulations at 24 CFR 813.106(c)(8)(i) which allow exclusion of income received under training programs funded by HUD. It is anticipated that the costs of these exclusions will be offset by long-term future savings to the Federal Government, because the exclusions will increase the number of economically self-sufficient families residing in assisted housing.

b. Project Eligibility. All insured and noninsured projects assisted under Section 215 Rent Supplement Payments, Section 236 Mortgage Insurance and Interest Reduction Payment for Rental Projects, including Section 236 Rental Assistance Payments, and Section 8 of the United States Housing Act of 1937.

c. Training Programs Funded by HUD. The Office of Multifamily Housing does not have special funds designated for job training programs.

However, owners and/or management agents may request to use project funds and/or the release of funds from the Residual Receipts account to underwrite all or a portion of the cost of developing, maintaining, and managing a job training program for project residents if funds are available. The Field Office will make the determination if the job training program may be approved, and if project funds are sufficient to fund the job training program and maintain the physical and financial integrity of the project. Job training programs may either be on-site at the project or off-site. For example, job training programs that have partnerships with local colleges, community based organizations, or local

business, may have in-house job training programs designed for project residents.

Funds that an owner may choose to use to underwrite a job training program may include Section 8 funds, Community Development Block Grant funds, housing authority funds, modernization funds, etc. These funds may be used to cover the costs of various components of a job training program, i.e., course materials, computer software, computer hardware, personnel costs, etc.' Also, contractors and subcontractors, in connection with work performed under a Flexible Subsidy contract, may elect to hire project residents to perform certain skills required under the contract. if the employment of the project residents was pursuant to an apprenticeship program, this could constitute a training program using HUD funds, and income received by the tenants in the apprenticeship program will qualify as an exclusion from income.

Participation in a job training program is voluntary on the part of the owner and tenant. However, in the context of Neighborhood Networks

(see HBK 4381.5 REV-2, CHG-2, Chapter 9) and Welfare Reform, income exclusions for job training are a good incentive for getting people to work.

d. Criteria For Determining Income Received From Training Programs. Amounts received such as stipends, wages, transportation payments, and child care vouchers received, pursuant to the training program, are excluded from annual income for the purpose of calculating rent. Income received as compensation for employment is excluded only if the employment is a component of a job training program. Amounts excluded under this provision may include, but are not limited to, compensation received during:

- On the job training programs.
- Apprenticeship programs.
- Third-party employment

The exclusion of income earned is allowed only during the job training program, or training oriented employment, but not during employment secured or maintained once all training has been completed. Any additional compensation received during the training period that is unrelated to the job training program (i.e., income received prior to participating in the job training program, e.g., welfare benefits, social security payments, etc.) would not be excluded from income.

Acceptable training-oriented employment for the purposes of excluding income for calculating rent must be distinguished from ordinary employment by its characteristics of 1) the activities occur under a training program that has clearly defined goals and objectives; and 2) the training program is for a pre-determined limited time period, and initially, not to exceed one year.

It is acceptable that the program use both HUD funds and non-HUD funds, but HUD funding must be a material portion of the total funding designated for the training program. Owners/management agents are encouraged to seek partnerships with local service providers and to mobilize support and participation from corporate and community based organizations to provide key components of the training program.

e. Local HUD Office Review. Requests to use HUD funds to underwrite all or a portion of a job training program must be submitted to and approved by the Local HUD Field Office.

Field Offices must verify that a material portion of the job training program is funded by HUD and that the employment activities are part of a training program. Owners and management agents should be required to submit regular reports detailing the operation of the program, funding sources received from other resources, the number of tenants participating in the program, etc. Frequency and content of the reports will be determined by the Field Office.

At the conclusion of the pre-determined time period for the job training program, Field offices will review it to determine if it is meeting its defined goals, and if it would be advantageous to the tenants and to the Department to continue the program. However, the training program may only be extended for no more than one additional year. The total training program will not exceed two years.

SECTION 4. Verification Requirements and Procedures

3-30. REQUIREMENTS TO VERIFY INFORMATION PROVIDED BY APPLICANTS AND TENANTS

a. Owners must verify all income, expenses, assets, household characteristics and circumstances that affect eligibility or tenant rent. This must be done before the owner transmits the tenant data to HUD or the Contract Administrator.

b. Written verification directly from the source must be obtained when possible.

REGULATORY REFERENCES:

24 CFR 813.109, Definition of Income, Income Limits, Rent and Reexamination of Family income for the Section 8 Housing Assistance Payments Programs and Related Programs.

24 CFR 215, Rent Supplement Payments, particularly 215.55, Reexamination of Family Income and Composition.

24 CFR 236, Section 236 Mortgage Insurance and Interest Reduction Payment for Rental Projects, particularly Section 236.80, Reexamination of Income and Section 236.760, Change in Tenant Income Status.

24 CFR 200.1001, Disclosure of Verification of Social Security Numbers by Applicants and Participants in Assisted Mortgage and Loan Insurance Programs

Continued on the next page--

REGULATORY REFERENCES - Continued

24 CFR 200.1201, Procedures for Obtaining Wage and Claim Information about Applicants and Participants in HUD's Assisted Mortgage and Loan Insurance and Related Programs from State Wage Information Collection Agencies. This part covers the Rent Supplement program as well as the rental assistance programs under the Sections 221(d)(3) and 236 programs

24 CFR 760, Procedures for Obtaining Wage and Claim Information about Applicants and Participants in HUD's Section 8 and Public Housing Programs from State Wage Information Collection Agencies (This part covers the Section 8 programs.)

24 CFR 16, Implementation of the Privacy Act

3-31. ACCEPTABLE METHODS OF VERIFYING INFORMATION ABOUT TENANTS AND APPLICANTS. Three methods are permitted:

a. Verification by a third party. Written verification is preferred.

(1) Owners must follow paragraph 3-34 in obtaining the consent of the applicant or tenant for the release of information about them from a third party to the owner.

(2) Owners must send verification forms directly to the source, not through the applicant.

(3) When written verification is not possible, the next most acceptable form is direct contact with the source, in person or by telephone. The owner must document the conversation in the applicant's/tenant's file including all information that would have been included in a written verification.

b. Review of Documents

(1) Owners may use documents submitted by the applicant or tenant when:

(a) Information does not require third-party verification (such as birth certificates or adoption papers verifying household membership); or

(b) Third-party verification is impossible or delayed beyond four weeks of the initial request.

(2) The owner must place in the family's file either copies of documents or a list of the documents and the information on them.

c. Applicant/Tenant Certification. Owners may accept an applicant's notarized statement or signed affidavit if:

(1) Such certifications are specifically authorized by this handbook. (See Appendix 4.) OR

(2) Other preferred forms of verification cannot be obtained.

d. Appendix 4 provides a listing of acceptable sources and methods of verifications.

3-32. EFFECTIVE TERM OF VERIFICATIONS.

a. For Annual Recertifications:

(1) Information Not Subject to Change. (Example: Verification that a person is age 62 or older.) Owners need to verify this information only ONCE.

(2) Information Subject to Change. These verifications are valid for 90 days from the date the owner received them. If the information is orally updated by the source, owners may use these verifications for an additional 30 days. Owners may not rely on verifications that are more than 120 days old. If a family has not been admitted or recertified by then, the owner must obtain new verifications. The time-frames in this paragraph are not provided by regulation.

b. For Interim Recertifications: Owners must ask the tenant to identify all income, expenses or circumstances that have changed since the last interim or annual recertification. Owners need verify only information that has changed.

3-33. SUGGESTED VERIFICATION PROCEDURES. Owners should:

a. Maintain a checklist for each tenant which documents verification efforts and tracks progress. See Appendix 7 for a sample checklist.

b. Develop standard verification consents for all information that must be verified. See paragraph 3-36, Requirements for Consents for the Release of Information. See also Appendix 4, Acceptable Forms of Verification - Relevant Information to Verify with a Third Party.

c. Make personal contacts with large employers and public agencies from whom a large number of tenants receive income. Explaining program requirements and giving advance notice may help them to respond quickly.

3-34. REQUIREMENTS FOR TENANTS AND APPLICANTS TO SIGN VERIFICATION CONSENTS. Applicants and Tenants must sign the following documents that provide their consent for the release of information about them:

a. The form HUD 9887, Notice and Consent to the Release of Information, in Appendix 3. This form allows HUD and a Public Housing Agency to verify information with IRS, the Social Security Administration and the state agency that keeps wage and unemployment compensation claim information.

b. Form HUD 9887-A, Applicant's/Tenant's Consent to the Release of Information - Verification by Private Owners of Information Supplied by Individuals Who Apply for Housing Assisstance in Appendix 3. This form explains the purposes and uses of individual verification consents.

NOTE: The person(s) who is authorized to perform verifications for the housing owner must also sign the form HUD 9887-A.

c. The individual verification consents prepared by the owner in accordance with Section 4 of Chapter 3, Verification Requirements and Procedures, and Appendix 4, Acceptable Forms of Verifications.

3-35. INFORMATION TO APPLICANTS AND TENANTS ABOUT THE CONSENTS THAT THEY SIGN.

a. Owners must provide every family with a copy of:

(1) The HUD Fact Sheet entitled, Verification of

Information Provided by Applicants and Tenants of Assisted Housing. It is printed as an attachment to form HUD 9887 and 9887-A in Appendix 3.

(2) The signed form HUD 9887, and

(3) The signed form HUD 9887-A.

b. It is suggested that at the same time the owner provides a copy of the fact sheet that the Owner also provide applicants and tenants with a copy of the Resident Rights and Responsibilities brochure. If the owner does not have copies to provide, s/he may advise tenants and applicants that they may obtain copies by calling the HUD National Multifamily Clearinghouse at 1-800-685-8470. Owners may obtain bulk copies of this brochure by calling this number.

c. Upon request by the family, this paragraph requires owners to provide the family with a copy of the relevant verification consents which the adult family members sign.
NOTE: If the owner does not have access to a photocopy machine, the tenant or applicant may sign an additional form HUD 9887, form HUD 9887-A and applicable verification consents.

d. In the event that an individual cannot read and/or sign a consent form due to a disability, the owner/manager shall make a reasonable accommodation in accordance with Section 504 of the Rehabilitation Act of 1973 and its implementing instructions at 24 CFR Part 8. See also Chapter 2 of this handbook.

Examples of reasonable accommodations:

0 provision of forms in large print

0 readers for persons with visual disabilities

0 use of designated signatory (i.e., another person authorized to sign on the applicant's or tenant's behalf); and

0 completion of a home visit if the individual's disability prevents him/her from coming to the office to complete forms.

e. The owner must inform the individual, or a third party which s/he designates, of the findings made on the basis of information verified under the

individual verification consents. The owner must give the individual the opportunity to contest such findings in accordance with Chapter 5 of the Handbook 4350.3 and the lease. See also paragraph 3-38, Inconsistent Information obtained Through Verifications. However, for information received under the form HUD 9887, HUD or the PHA may inform the individual of these findings.

3-36. REQUIREMENTS FOR CONSENTS FOR THE RELEASE OF INFORMATION, INCLUDING THE FORM HUD 9887, 9887-A AND THE INDIVIDUAL VERIFICATION CONSENTS

a. State Privacy Laws. Owners must comply with State privacy laws concerning the information they receive from third parties about applicants and tenants. These laws generally require confidentiality and restrict the uses of this information.

b. Federal Laws. As required by Federal law, HUD limits the information that an owner can receive about an applicant or tenant to that information which is necessary in determining eligibility or level of assistance.

c. Required Content for Individual Verification Consents. Appendix 4 contains the required elements for individual verification consents, including customer protections. This appendix also lists examples of information that is relevant and necessary for determining an individual's eligibility for assistance or level of benefits. The following appendices also provide information on individual consents:

(1) Appendix 3 provides copies of the Applicant/Tenant Fact Sheet and the forms HUD 9887 and 9887-A.

(2) Appendix 5 provides a sample verification consent which contains all of the consumer protection provisions and required elements of Appendix 4.

(3) Appendix 6 provides sample verifications of a person's disability or handicap required for determining eligibility to a particular project for persons with disabilities or handicap and determining eligibility for certain allowances based upon disability or handicap.

d. Duration of the consent. The individual verification consents and the forms HUD 9887 and 9887-A expire 15 months after they are signed. This allows for them to be active during the 90

days preceding the certification period and to remain active throughout the entire 12-months of the certification. There are differences between the form HUD 9887 and the individual verification consents on the periods during which they are valid:

(1) Form HUD 9887. This form is valid for the entire 15 month period.

(2) The form HUD 9887-A and the individual verification consents can be used during the 90 days before the certification period. The consents may also be used during the certification period, but only in cases where the owner receives information indicating that the information the tenant has provided may be incorrect. Other uses are prohibited.

e. Length of time covered by the consent

(1) Form HUD 9887. The information covered by the form HUD 9887 is restricted as follows:

(a) SWICA. Information received from SWICAs is limited to wages and unemployment compensation the applicant or tenant received during period(s) within the last 5 years s/he has received assisted housing benefits.

(b) IRS and Social Security Administration. Data from IRS and SSA cover only the current return and W-2 only.

NOTE: If the IRS or SSA matches reveal that the tenant may have supplied inconsistent information, HUD or the PHA may request the tenant's consent to acquire information up to 5 years old during periods in which the tenant was receiving assistance.

(2) Individual Verification Consents. The information covered by these consents is restricted as follows:

(a) Routine verifications are restricted to information that is no older than 12 months.

(b) However, if the owner receives inconsistent information and has reason to believe that the information the applicant or tenant has supplied is incorrect, then the owner can obtain information up to 5 years old during

periods in which the individual was receiving assistance, as provided by the form HUD 9887-A.

f. The use of photocopies.

(1) Form HUD 9887. HUD and the PHA must certify that an original signature is on file before they can initiate matching with the SWICA, IRS and Social Security. The use of photocopies is unnecessary.

(2) Individual Verification Consents. Generally, the owner can accomplish verifications by using consents containing original signatures. If it is the owner's experience that a particular third party fails to respond to the first request and a second notice is usually required, the owner may ask the applicant or tenant to sign a second consent to be kept in the file in case it is needed. The signed form HUD 9887-A states that in the absence of an original signature, the owner can use a photocopy of the consent.

g. Confidentiality of Applicant/Tenant Information. Any employee of the owner who fails to keep tenant information confidential is subject to the enforcement provisions of any State or Federal privacy act and subject to enforcement actions by HUD. Also, any applicant or participant affected by negligent disclosure or improper use of information may bring civil action for damages, and seek other relief, as may be appropriate, against the employee. Penalties for using consents are described on the forms HUD 9887 and 9887-A.

3-37. OWNER ACTIONS WHEN AN APPLICANT OR TENANT FAILS TO SIGN THE FORM HUD 9887, THE FORM 9887-A OR THE RELEVANT INDIVIDUAL VERFICATION CONSENTS.

a. If an adult member of the family, due to extenuating circumstances, is unable to sign the required consents on time, the owner may document the file as to the reason for the delay and the specific plans to obtain the proper signature as soon as possible.

b. An individual's failure to sign any consent may result in the denial of assistance or termination of assisted housing benefits. If an applicant is denied assistance for this reason, the owner must follow the notification procedures in Chapter 2.

If a tenant is denied assistance for this reason, the owner must follow the procedures set out in the lease which require that the tenant pay the higher, HUD-approved market rent for the unit for failure to provide recertification information. (See also Chapter 5.)

3-38. INCONSISTENT INFORMATION OBTAINED THROUGH VERIFICATIONS. An owner cannot take any action to terminate, deny, suspend or reduce any assistance an applicant or tenant receives based on information obtained through a consent until the owner has independently verified information relating to:

a. The amount of the wages, other earnings or income, or unemployment compensation provided to Family members;

b. Whether each applicable family member actually received (or had) access to such income, wages, earnings or other benefits for his/her own use; and

c. The period or periods when, or with respect to which, the individual family members actually received such wages, earnings or benefits.

NOTE: ANY ACTIONS TO DENY, SUSPEND OR REDUCE ASSISTANCE MUST BE MADE IN COMPLIANCE WITH CHAPTER 2 (APPLICANTS) OR CHAPTER 5 OF HANDBOOK 4350.3 AND THE LEASE (TENANTS).

3-39. INFORMATION RELATING TO VERIFICATIONS TO BE KEPT ON FILE

a. Owners must keep the following documents in the tenant file at the project site:

(1) the original, signed form HUD 9887;

(2) the original, signed form HUD 9887-A; and

(3) a copy of the signed individual verification consents.

(4) third party verifications

b. Owners must maintain documentation of all verification efforts for at least three years after the effective date of the certification or recertification.

c. Owners must keep applicant and tenant information in a location that assures that it is kept confidential. See paragraph 36g and the forms HUD 9887 and 9887-A for consequences of negligent disclosure or improper use of applicant and tenant information.

4350.3 CHG-27
EXHIBIT 3-1

EXHIBIT 3-1

DEFINITIONS OF TERMS USED IN CHAPTER 3 AND THE 59 DATA REQUIREMENTS

This Exhibit summarizes the definitions of several regulatory terms that generally apply to the following programs: Section 8, Rent Supplement, RAP, Sections 236 and 221(d)(3)BMIR. For additional definitions and for full descriptions of the definitions listed below, see the relevant regulation at either 24 CFR Parts 215, 221, 236, or 813. Chapter 3 also describes certain terms that deal with Annual Income and Adjusted Income (e.g., what is included in annual income; what is excluded from annual income; allowances). Exhibit 2-1 of this handbook defines terms relating to eligibility for assistance.

NOTE: See Exhibit 3-2 for definitions used with the Section 162 and Capital Advance Programs (PAC and PRAC).

1. Assisted Rent. Any rent less than the market rent defined in paragraph 7. Includes Section 236 rents that are greater than the Basic Rent. See the definition of assisted tenant in paragraph 5-2.

2. Assisted Tenant. This term is defined in paragraph 5-2. It is repeated here: A tenant who pays less than the market rent. Includes tenants:

   -- receiving Rent Supplement, RAP or Section 8 assistance

   -- paying the BMIR contract rent

   -- paying the Section 236 basic rent

   -- paying above basic rent, but less than market rent, in a Section 236 project (which generates "excess income").

3. Assistance Payment. The amount HUD pays the owner for a unit occupied by a Section 8, RAP or Rent Supplement tenant. It includes HUD's share of the contract rent and any utility reimbursement due the tenant. It is the gross rent for the unit minus the Total Tenant Payment (TTP).

4. Contract Rent. The rent HUD or the Contract Administrator has approved for this unit type. The rent may be paid by the tenant, HUD or both. The Contract Rent is the Section 8 Contract Rent, the Section 236 Basic Rent, The Section

221(d)(3) BMIR Unit Rent or the Rent Supplement Unit Rent, as applicable. Obtain this amount from the project's Rental Schedule (Form HUD-92458) or HAP Contract.

5. Dependent. A member of the Family household (excluding foster children) other than the Family head or spouse, who is under 18 years of age or is a Disabled Person or Handicapped Person, or is a Full-time student.

6. Foster Adult. A foster adult is usually an adult with a disability who is unrelated to the tenant family and who is unable to live alone.

7. Full-time Student. A person who is carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

8. Gross Rent. The total of the Contract Rent plus the Utility Allowance. If there is no utility allowance, Contract Rent equals Gross Rent. It is the total monthly cost of housing an eligible family.

9. Income Limits. HUD establishes Very low-income and Low-income limits that are used to determine if assisted housing applicants qualify for admission to HUD-assisted programs. these income limits are based on HUD estimates for area median family income with certain statutorily permissible adjustments.

10. Live-in Aide-- is a person who resides with an Elderly, Disabled, or Handicapped person(s) and who--

    (a) Is determined to be essential to the care and well-being of the Person(s);
    (b) Is not obligated for the support of the Person(s); and

    (c) Would not be living in the unit except to provide the necessary supportive services.

    NOTE: See all the discussion of live-in aid in Chapter 2.

11. Low-income Family. A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

12. Market Rent. The rent HUD authorizes the owner to collect from families ineligible for assistance. For Section 236 units, the market rent is shown on the project's HUD-approved rent schedule. For Rent Supplement, Section 202 and Section 8 units, the market rent is the same as the contract rent. For BMIR units, market rent varies by whether the project is a rental or cooperative.

a) BMIR Rentals. Market rent equals 110 percent of the BMIR Contract Rent.

b) BMIR Cooperatives. Market rent equals the contract rent plus any surcharge established by the cooperative and approved by HUD. If the cooperative did not receive HUD approval of a plan for surcharging its over-income members, market rent equals 110% of the Contract Rent.

13. Pre-1984 Definition of Minor (For use only when a tenant's rent increases are still limited under law using the special worksheet calculations of the 59 Data Requirements. Use the definition of minor provided in this paragraph when completing Item B-9 of Worksheets D, F and G. This definition is excerpted from paragraph 2-6 of Handbook 4350.3 dated 11/81:

> "The term "Minor" includes persons under 18 years of age (age 17 and younger) other than the head of household or spouse and persons aged 18 and over who are full-time students. Neither the head of household nor spouse may ever be counted as a minor. Foster children are counted as family members for establishing appropriate unit size but not counted as minors for the purpose of determining the Tenant's income or rent."

14. Project. In electronically transmitting certification data, "project" includes buildings located on adjacent sites and managed by one project, even if the buildings have separate mortgages and/or project numbers. See the 59 Data Requirements in Appendix 11 on how to process unit transfers.

15. Tenant Rent. The amount payable monthly by the Family as rent to the Owner (including a PHA).

a. Where all utilities (except telephone) and other essential housing services are supplied by the Owner, Tenant Rent equals Total Tenant Payment.

b. Where some or all utilities (except telephone) and other essential housing services are not supplied by the Owner and the cost of these utilities and services are not included in the amount paid as rent to the Owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance.

16. Total Tenant Payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward the gross rent. Total Tenant Payment is computed in accordance with the formula in Exhibit 3-3.

17. Utility Allowance. HUD's or the contract administrator's estimate of the average monthly utility bills (except

telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not utility allowance. Utility allowances vary by unit type and are listed on the project's rent schedule or HAP contract.

18. Utilities Attributable to the Unit. (Applies only to RAP units.) HUD's estimate of the average monthly utilities (except telephone) that will be consumed by an energy conscious household and paid by the project. This concept is used only in the RAP formula that was in effect prior to May 1, 1983.

19. Utility Reimbursement. The amount, if any, by which the Utility Allowance exceeds the Family's Total Tenant Payment.

20. Very-low Income Family is a Low-income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

21. Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state or local government.

22. Welfare Rent. This concept is used for Section 8 and RAP tenants who receive welfare assistance on an "AS-PAID" basis. (See the discussion of "as-paid" at the end of Exhibit 3-3, Tenant Rent Formulas.) Welfare rent is used also for PAC and PRAC tenants under Exhibit 3-2.

    1) If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities--NOT the amount the family is receiving at the time the certification or recertification is being processed.

    2) If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow. (See example at the end of Exhibit 3-3.)

EXHIBIT 3-2
DEFINITIONS OF TERMS USED IN CHAPTER 3 AND THE 59 DATA REQUIREMENTS

Chapter 3 also describes certain terms that deal with Annual Income and Adjusted Income (e.g., what is included in annual income; what is excluded from annual income; allowances). Exhibit 2-1 of this handbook defines terms relating to eligibility for

assistance.

NOTE: See Exhibit 3-1 for terms used in other programs covered by Handbook 4350.3.

SECTION 162 AND CAPITAL ADVANCE PROGRAMS (PAC AND PRAC)

(Section 202 Projects for Nonelderly Handicapped Families and Individuals Section 162 Assistance - PAC)

Additional References:
24 CFR 885.700
Handbook 4571.1. Rev-2, 4571.2 through 4571.5

1. Contract Rent. The total amount of rent specified in the PAC as payable by HUD and the family to the Borrower for an assisted unit or residential space.

2. PAC (Project Assistance Contract). The contract entered into by the Borrower and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the PAC.

3. Project. In electronically transmitting certification data, "project" includes buildings located on adjacent sites and managed by one project, even if the buildings have separate mortgages and/or project numbers. See the 59 Data Requirements in Appendix 11 on how to process unit transfers.

4. Project Assistance Payment. The payment made by HUD to the Borrower for assisted units as provided in the PAC. The payment is the difference between the contract rent and the tenant rent. An additional payment is made to a family occupying an assisted unit in an independent living complex when the utility allowance is greater than the total tenant payment. A project assistance payment, known as a "vacancy payment", may be made to the Borrower when an assisted unit (or residential space in a group home) is vacant, in accordance with the terms of the PAC.

5. Tenant Rent. The amount payable monthly by the Family as rent to the Owner (including a PHA).

   a. Where all utilities (except telephone) and other essential housing services are supplied by the Owner, Tenant Rent equals Total Tenant Payment.

   b. Where some or all utilities (except telephone) and other essential housing services are not supplied by the Owner and the cost of these utilities and services are not included in the amount paid as rent to the Owner, Tenant Rent equals Total Tenant Payment less the Utility Allowance. NOTE: This is the same definition of "Tenant Rent" as in Exhibit 3-1.

6. Total Tenant Payment. The total amount the HUD rent formula requires the tenant to pay toward the gross rent. Total Tenant Payment is computed in accordance with the formula in Exhibit 3-3. NOTE: This is the same definition of "Total Tenant Payment" found in Exhibit 3-1.

7. Utility Allowance. HUD's or the contract administrator's estimate of the average monthly utility bills (except telephone) for an energy-conscious household. This estimate considers only utilities paid directly by the tenant. If all utilities are included in the rent, there is not utility allowance. Utility allowances vary by unit type and are listed on the project's rent schedule or HAP contract. NOTE: This is the same definition of "Utility Allowance" found in Exhibit 3-1.

8. Utility Reimbursement. The amount, if any, by which the Utility Allowance exceeds the Family's Total Tenant Payment. NOTE: This is the same definition of "Utility Reimbursement" found in Exhibit 3-1.

(Supportive Housing for the Elderly
and Supportive Housing for
Persons with Disabilities)

PRAC

Additional References:
24 CFR 889.105 and 890.105
Notice H 93-67 dated 9-30-94
Handbook 4571.1. Rev-2, 4571.2
through 4571.5

1. Section 8 Very Low Income Limits. This limit is 50% of median income.

2. PRAC Operating Rent. The total of the Contract Rent plus the Utility Allowance. If there is no utility allowance, Contract Rent equals Gross Rent. It is the total monthly cost of housing an eligible family.

3. PRAC (project rental assistance contract). The contract entered into by the Owner and HUD setting forth the rights and duties of the parties with respect to the project and the payments under the PRAC.

4. Project. For purposes of TRACS submissions, "project" includes buildings located on adjacent sites and managed by one project, even if the buildings have separate mortgages and/or project numbers. See the 59 Data Requirements in Appendix 11 on how to process unit transfers.

5. Project Rental Assistance Payment. The payment made by HUD to the Owner for assisted units as provided in the PRAC. The payment is the difference between the total tenant payment and the HUD-approved per unit operating expenses except for

expenses related to items not eligible under design and cost provisions. An additional payment is made to a household occupying an assisted unit when the utility allowance is greater than the total tenant payment. A project rental assistance payment, known as a "vacancy payment", may be made to the Onwer when an assisted unit is vacant, in accordance with the terms of the PRAC.

6. Tenant Payment to Owner. This equals total tenant payment less utility allowance, if any.

7. Total Tenant Payment/Resident Rent Payment (rent and utilities). Each family or individual who receives PRAC subsidy must make a total tenant payment of 30% of adjusted income, 10 percent of gross income or Welfare Rent, whichever is greater for housing costs, i.e., rent and utilities. In some cases, a resident's monthly rent payment may exceed the PRAC operating rent. As with HAP contracts:

   a) The monthly amount a resident pays the owner/manager should be the Total Tenant Payment less any HUD-approved utility allowance the tenant pays, and

   b) The resident may receive a utility reimbursement from the owner/manager if the resident's Total Tenant Payment is less than the HUD-approved utility allowance.

8. Payment of Utility Reimbursement. A project rental assistance payment will be made to a household occupying an assisted unit when the household is responsible for paying the cost of all utilities (except telephone) and such costs exceed the household's tenant payment. The Owner may make the payment jointly to the household and the utility company, or, if the household and utility company consent, directly to the utility company.

9. Total Tenant Payment. The tenant payment made by the household to the Owner to cover its housing costs, including the cost of all utilities (except telephone).

10. Utility Allowance (Part 890 - Supportive Housing for Persons with Disabilities). This is an amount equal to the estimate made or approved by HUD of the monthly costs of a reasonable consumption of utilities (except telephone) for the unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary and healthful living environment. A utility allowance is used in cases where the cost of utilities (except telephone) is the responsibility of the household and not included in the tenant payment.

11. Utility Allowance (Part 889 - Supportive Housing for the Elderly). Use the definition of "utility allowance" in Exhibit 3-1. It is determined as provided under the definition of "utility allowance" in 24 CFR Part 813.102.

12. Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by Federal, state or local government.

13. Welfare Rent. This concept is used for Section PAC and PRAC tenants who receive welfare assistance on an "AS-PAID" basis. (See the discussion of "as-paid" at the end of Exhibit 3-3.) Welfare rent is also used also for Section 8 and RAP tenants.

1) If the agency does NOT apply a ratable reduction, this is the maximum a public assistance agency COULD give a family for shelter and utilities--NOT the amount the family is receiving at the time the certification or recertification is being processed.

2) If the agency applies a ratable reduction, welfare rent is a percentage of the maximum the agency could allow. (See example in at the end of Exhibit 3-3.)

4350.3 CHG-27
EXHIBIT 3-3

EXHIBIT 3-3
TENANT RENT FORMULAS ESTABLISHED BY THE HOUSING

AND COMMUNITY DEVELOPMENT ACT OF 1981
(These are the formulas referenced in Chapter 3
and used in the 59 Data Requirements
in Appendix 11)

SECTION 8, RAP, PAC, AND PRAC

Total Tenant Payment (TTP) is the GREATER of:

30% of Adjusted Income
or
10% of Gross Income
or
Welfare Rent (Applies only to welfare recipients in as-paid states or counties.) See the end of this Exhibit for a discussion of as-paid.

NOTE: An owner may admit an applicant to the Section 8, RAP and PAC programs only if the TTP is less than the gross rent. This note does not apply to the PRAC program. In some instances under the PRAC program a tenant's TTP will exceed

the PRAC operating rent (gross rent).

RENT SUPPLEMENT

TTP is the GREATER of:

30% of Adjusted Income
or
30% of Gross Rent

NOTE: For move-ins and INITIAL CERTIFICATIONS, the amount of Rent Supplement assistance may be no less than 10 percent of the gross rent. If the initial amount of Rent Supplement assistance would be less than 10 percent of the gross rent, the tenant is NOT eligible for Rent Supplement Assistance.

SECTION 236

Without Utility Allowance

Tenant Rent is:

0 the GREATER OF:

- 30% of Adjusted Income
  or
- Basic Rent

0 But not more than Market Rent

With Utility Allowance

Tenant Rent is:

0 the GREATER of:

- 30% of Adjusted Income less the Utility Allowance
  or
- Basic Rent
  or
- 25% of Adjusted Income

0 But NO MORE than Market Rent

BMIR

At initial certification, the tenant pays the BMIR contract rent (i.e., the rent shown on the project Rent Schedule).

At recertfication, tenant rent varies according to how the tenant's annual
income compares to the BMIR income limit. If the tenant's annual income is:

- less than or equal to 110% of the BMIR income limit, the tenant pays the BMIR contract rent.

- greater than 110% of the BMIR income limit, the tenant pays the GREATER of the BMIR market rent or the rent they are now paying.

PUBLIC ASSISTANCE INCOME IN AS-PAID WELFARE PROGRAMS. Use this paragraph to determine the Welfare Rent and the Annual Income for Section 8, RAP, PAC AND PRAC Tenants who live in "As-Paid" states or counties. See Exhibit 3-3, Tenant Rent Formulas where "welfare rent" is a line item on the worksheet for these programs in determining the Total Tenant Payment.

IMPORTANT: Owners MUST check with the HUD Field Office before calculating incomes from "as-paid" programs, because welfare programs may operate differently in some states or counties.

a. A welfare program is considered "as-paid" if the welfare agency:

1. Designates a specific amount for shelter and utilities; and

2. Adjusts that amount based upon what the family is currently paying for those items.

b. The amount of Welfare Assistance income to be included as Annual Income must include the SUM of:

3. The amount the welfare agency verifies the family will receive for needs other than shelter and utilities AND

4. The maximum the welfare assistance agency could allow the family for shelter and utilities. This amount may be all or only some percentage of the amount shown on assistance schedules published by the welfare agency.

NOTE: This may be different than the amount the family is receiving at the time the certification/recertification is being processed.

a) If the agency pays the full amount, include the amount the agency's schedule shows for that size family.

OR

b) If the agency pays only a part of the published amounts, include the published amount multiplied by the percentage the agency pays (e.g., 80% of the published amount). When the agency pays only a percentage of the published schedules, payments are said to be "ratably reduced."

EXAMPLE

The agency's published schedule shows a maximum of $180 for shelter and utilities for this size family. The welfare agency has verified that the family will receive $220 for other general needs. For the purpose of this example, this is the only income of the family.

If the agency does not apply a ratable reduction, $400 will be included in annual income and "welfare rent" will be $180. If the agency applies a ratable reduction, annual income and welfare rent would be computed as shown below.

Maximum Amount that Can be Provided for Housing

$ 180 maximum allowed for housing
x .80 ratable reduction
$ 144 Maximum Amount that Can be Provided for Housing

Application of the Section 8 Tenant Rent Formula in Exhibit 3-3:

Total Tenant Payment is the greater of:

$109 30% of Adjusted Income (.30 x $364)

$ 36 10% of Gross Income (.10 x $364)

$144 Welfare Rent

The TTP for this tenant is $144.

Monthly Income

$ 220 basic needs

+ 144 welfare rent
364 monthly income

EXHIBIT 3-4

ASSETS

USEFUL REFERENCES

SUBJECT	PARAGRAPH
Counting Income from Assets in Determining Annual Income	3-9
Valuing Assets	3-12
Assets Owned Jointly	3-13
Imputed Income from Assets	3-15
Special Rules When Assets are Disposed of	3-16
Lump Sum Receipts (one-time receipts)	3-19

NOTE: There is no asset limitation for participation in HUD assisted housing programs. However, the definition of annual income includes net income from family assets

A. Net Family Assets Include:

1. Cash held in savings and checking accounts, safe deposit boxes, homes, etc. For savings accounts, use the current balance. For checking accounts, use the average balance for the last six months. Assets held in Foreign countries are considered assets.

2. Revocable Trusts. Include the cash value of any revocable trust available to the household. See discussion of trusts in paragraph 3-14.

3. Equity in Rental Property or Other Capital Investments. Include the current fair market value less: (a) any unpaid balance on any loans secured by the property; and (b) reasonable costs that would be incurred in selling the asset (e.g., penalties, broker fees, etc.)

   NOTE: If the person's main business is real estate, then count any income as business income under paragraph 3-21. Do not count it as an asset and as business income.

4. Stocks, Bonds, Treasury Bills, Certificates of Deposit, Money Market Accounts.

5. Individual Retirement and Keogh Accounts. These are included because the holder has access to the funds, even though a penalty may be assessed. If the individual is withdrawing from the account, determine the amount of the asset by using the average balance for the previous 6 months. (Do not count withdrawals as income.)

EXAMPLE: Mrs. Pham has a Keogh account valued at $30,000. When she turns 70 years old, she begins withdrawing $2,000 per year. Continue to count this account as an asset using the guidance in paragraph 3-12, Valuing Assets. Do not count the $2,000 she withdraws as income.

6. Retirement and Pension Funds.

a. While the person is employed. Include only amounts the family can withdraw without retiring or terminating employment. Count the whole amount less any penalties or transaction costs. Follow paragraph 3-12 on determining the value of assets.

b. At retirement; termination of employment or withdrawal. Periodic receipts from pension and retirement funds are counted as income. Lump sum receipts from pension and retirement funds are counted as assets. Count the amount as an asset or as income as provided below.

1) If benefits will be received in a lump sum, include the lump sum receipt in Net Family Assets.

2) If benefits will be received through periodic payments, include the benefits in annual income. Do not count any remaining amounts in the account as an asset.

3) If the individual initially receives a lump sum benefit followed by periodic payments, count the lump sum benefit as an asset as provided in the example below and treat the periodic payment as income. In subsequent years, count only the periodic payment as income. Do not count the remaining amount as an asset.

NOTE: This paragraph and the example below assume that the lump sum receipt is a one-time receipt and that it does not represent delayed periodic payments. However, in situations in which a lump sum payment does represent delayed periodic payments, then the amount would be considered as income and not an asset.

EXAMPLE: Upon retirement, Mrs. Reilly receives a lump sum amount of $15,000, plus she will receive an annuity of $350 per month. Count the $15,000 amount she

received as an asset and count the $350 as income. Count only that portion of the $15,000 receipt that is placed into an asset listed this Exhibit.

7. Cash Value of Life Insurance Policies Available to the Individual Before Death (e.g., the surrender value of a whole life policy or a universal life policy.) It would not include a value for term insurance, which has no cash value to the individual before death.

8. Personal Property Held as an Investment. Include gems, jewelry, coin collections, or antique cars held as an investment. An applicant's wedding ring and other personal jewelry are NOT considered assets.

9. Lump sum receipts or one-time receipts. (See explanation in paragraph 3-19.) These include inheritances, capital gains, one-time lottery winnings, victim's restitution; settlements on insurance claims (including health and accident insurance; worker's compensation; and personal or property losses); and any other amounts that are not intended as periodic payments.

10. A Mortgage or Deed of Trust Held by an Applicant.

    a. Payments on this type of asset are often received as one combined payment of principle and interest with the interest portion counted as income from the asset.

    b. This combined figure needs to be separated into specific principle and interest portions of the payment. (This can be done by referring to an amortization schedule that relates to the specific term and interest rate of the mortgage.)

    c. To count the actual income for this asset, use the interest portion paid on the amortization schedule for the 12 month period following the certification.

    d. To count the imputed income for this asset, determine the asset value at the end of the 12 month period following the certification. Since this amount will continually be reduced by the principle portion paid during the previous year, the owner will have to determine this amount at each annual recertification. See the following example:

EXAMPLE Computation of Imputed Income:
An elderly tenant sells her home and holds the mortgage for the buyer. The cash value of the mortgage is $60,000. The combined payment of principle and interest expected to be received for the upcoming year is $5,000. The amortization schedule breaks that payment into $2,000 in principle and $3,000 in interest. In completing the

asset income calculation, the cash value of the asset is $60,000 and the projected annual income from that asset is $3,000. Each subsequent year, the cash value of the asset should be reduced by the principle portion paid of the amortization schedule. In this example, it would be reduced to $58,000 after the first year. The owner would multiply this amount by the passbook savings rate provided by the HUD Field Office under paragraph 3-15.

Regulatory References. (These references are current as of the date of publication. Readers should refer to the latest edition of the Code of Federal Regulations.) 24 CFR Parts 812.102, 215.1 and 236.2 define Net Family Assets as:

Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and the equity in a housing cooperative unit in which the family resides. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(In cases where a trust fund has been established and the trust is not revocable by or under the control of any member of the family, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund should be counted when determining Annual Income.)

In determining Net Family Assets, owners shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or recertification, as applicable, in excess of the consideration received therefor. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

B. Net Family Assets DO NOT include:

IMPORTANT: The owner does not compute income from any assets in this paragraph.

1. Necessary personal property (clothing, furniture, cars, wedding ring, vehicles specially equipped for persons with disabilities)

2. Interests in Indian trust land

3. Term life insurance policies (i.e., where there is no cash

value)

4. Equity in the cooperative unit in which the family lives

5. Assets that are part of an active business. "Business" does NOT include rental of properties that are held as investment and not a main occupation.

EXAMPLE: Mr. and Mrs. Hines own a copier and courier service. None of the equipment that they use in their business is counted as an asset (e.g., the copiers, the FAX machines, the bicycles).

EXAMPLE: Mrs. Washington rents out the home that she and her husband lived in for 42 years. This home is not an active business asset. Therefore, it is considered an asset and the owner must determine the annual income that Mrs. Washington receives from it.

6. Assets that are NOT effectively owned by the applicant. That is, when assets are held in an individual's name but:

   a. the assets and any income they earn accrue to the benefit of someone else who is not a member of the household; and

   b. that other person is responsible for income taxes incurred on income generated by the assets.

   NOTE: Nonrevocable trusts (i.e., irrevocable trusts) are not covered by this paragraph. See paragraph 3-14.

EXAMPLE: Assets held pursuant to a power of attorney because one party is not competent to manage the assets or assets held in a joint account solely to facilitate access to assets in the event of an emergency.

EXAMPLE: Mr. Cumbow and his daughter, Ms. Bornscheuer, have a bank account with both names on the account. Ms. Bornscheuer's name is on that account for the convenience of her father in case an emergency arises that would result in Ms. Bornscheuer handling payments for her father. Ms. Bornscheuer has not contributed to this asset, does not receive interest income from it, nor does she pay taxes on the interest earned. Therefore, Ms. Bornscheuer does not own this account. If Ms. Bornscheuer applies for assisted housing, the owner should not count this account as her asset. This asset belongs to Mr. Combow and would be counted entirely as the father's asset should he apply for assisted housing.

7. Assets that are not accessible to the applicant and provide

no income to the applicant. Nonrevcoable trusts are not covered under this paragraph. See paragraph 3-14.

EXAMPLE: A battered spouse owns a house with her husband. Because of the domestic situation, she receives no income from the asset and cannot convert the asset to cash.

4350.3 CHG-27
EXHIBIT 3-5

EXHIBIT 3-5

ANNUAL INCOME

USEFUL REFERENCES

SUBJECT	REFERENCE
Whose Income is Counted	3-10.a. Figure 3-1
Whose Income is not Counted	3-10.b. Figure 3-1
What Income is Counted	Exhibit 3-5, paragraph A
What Income is not Counted	Exhibit 3-5, paragraph B

Regulatory Reference: See 24 CFR 813.106(a), 236.3(a) and 215.21(a) for the definition of annual income:

> Annual income is the anticipated total income from all sources received by the family head and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets for the 12-month period following the effective date of certification of income, exclusive of certain types of income.

A. ANNUAL INCOME INCLUDES:

1. Interest, dividends and other income from net family assets (including income distributed from a nonrevocable trust). Paragraph 3-14 explains how to treat income distributed from a nonrevocable trust.

2. a. The gross amount (before any payroll deductions) of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services of all adults in the household (including persons under the age of 18 who are the head, spouse or co-head). Includes salaries of adults received from a

family-owned business.

b. Net income, salaries and other amounts distributed from a business. (See Paragraph 3-21 for guidance on how to calculate these amounts.)

3. The gross amount (before deductions for medicare, etc.) of periodic social security payments. Include payments received by adults on behalf of individuals under the age of 18 or by individuals under the age of 18 for their own support. (But see Exhibit 3-5, paragraph B.17, Amounts that are received on behalf of someone who does not reside with the family.)

   NOTE: If the Social Security Administration is reducing a family's benefits to adjust for a prior overpayment, count the amount that is actually provided after the adjustment. See example in paragraph 3-11.

4. The full amount of annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, (e.g., Black Lung Sick Benefits, Veterans Disability, Dependent Indemnity Compensation (widow of Killed in Action serviceman).

   Count the total amount of such amounts received. Do not reduce the amount by any amounts the individual previously paid into the account in order to receive the pension, annuity or insurance policy. See also the discussion in Exhibit 3-4, paragraph A.6b, Retirement and Pension Funds at retirement; termination of employment or withdrawal. It supports this paragraph by stating that periodic amounts are treated as income. It also covers lump sum receipts from pensions and annuities, which are treated as assets.

5. Delayed Periodic payments received because of delays in processing unemployment, welfare or other benefits. These are payments that would have been paid periodically, but were paid in lump sum because of circumstances such as processing delays. (See paragraph 3-20.) Also, see Exhibit 3-5, paragraph B.15, for the exclusion of deferred period payments of supplemental security income and social security benefits that are received in a lump sum payment.)

6. Payments in lieu of earnings, such as unemployment and disability compensation, workers' compensation and severance pay. Any payments that will begin during the next 12 months must be included.

7. Welfare assistance

   a. If the payment includes an amount specifically designated for shelter and utilities and the welfare agency adjusts that amount based upon what the family is currently paying for shelter and utilities, special calculations are required for certain tenants. (See Exhibit 3-3.)

b. If the welfare agency is reducing a family's benefits to adjust for a prior overpayment, count the amount that is actually provided after the adjustment. See example in paragraph 3-11.

8. Alimony and child support received by the household, unless exclusion of these amounts is justified by paragraph 3-22.

9. Alimony or child support paid by a member of the household is counted as income, even if it is garnished from wages.

EXAMPLE: Mr. Graevette pays $150 per month in child support. It is garnished from his monthly wages of $950. After the child support is deducted from his salary, he receives $800. The owner must count $950 as Mr. Graevette's monthly income.

10. Recurring monetary contributions or gifts regularly received from persons not living in the unit. Except, exclude from Annual Income recurring monetary contributions that are paid directly to a child care provider by persons not living in the unit. See explanation for this exclusion in paragraph B.17 of this Exhibit 3-5. Also, exclude gifts of groceries in paragraph B.1 of this exhibit.

11. Relocation payments made pursuant to Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

12. Actual income distributed from trust funds that are not revocable by or under the control of any member of the tenant family. See discussion in paragraph 3-14.

NOTE: Even if family assets exceed $5,000, use actual income distributed from the irrevocable trust.

B. WHAT IS EXCLUDED FROM ANNUAL INCOME

1. Meals on wheels or other programs that provide food for the needy; groceries provided by persons not living in the household; and amounts received under the School Lunch Act and the Child Nutrition Act of 1966 (including reduced lunches and food under Special Supplemental Food Program for Women, Infants and Children (WIC).

2. Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

3. Grants or other amounts received specifically for:

a. Medical expenses (including medicare premiums paid by an outside source).

b. Set aside for use under a Plan to Attain Self

Sufficiency (PASS) and excluded for purposes of Supplemental Security Income (SSI) eligibility.

NOTE: A PASS permits a person with disabilities who is receiving Supplemental Social Seacurity (SSI), and who is also receiving other income, to set aside a portion of the other income in order to achieve a work-related goal.

c. Out of pocket expenses for participation in publicly assisted programs. Such amounts must be made solely to allow participation in these programs. These expenses include special equipment, clothing, transportation, child care, etc.

4. The full amount of student financial assistance either paid directly to the student or to the educational institution. (This includes scholarships, grants, fellowships and any other kind of student financial assistance.) It does not matter what the assistance is actually used for.

Background history: This paragraph reflects changes to 24 CFR 215.21, 236.2, and to 813.106 to exclude from Annual Income all amounts of student financial assistance. Prior to this handbook change, Notice H 93-92 excluded from income all amounts of student financial assistance received under Title IV of the Higher Education Act of 1965. Prior to Notice H 93-92, only certain amounts received under Title IV were excluded from income.

5. Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household, co-head, and spouse).

6. Adoption assistance payments in excess of $480 per adopted child.

7. Loans (e.g., personal loan); NOTE: But see paragraph 3-21 on business loans which are not excluded.

EXAMPLE: Mr. Jones obtained a loan for $2,000. It does not matter how he used this money. It is not counted as income because Mr. Jones will have to repay it.

8. Temporary, nonrecurring or sporadic income (e.g., gifts; census taker income from the Federal Bureau of the Census).

9. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.

10. The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire (e.g., in the past, special pay included Operations Desert Storm).

11. Amounts received under training programs funded by HUD

(Comprehensive Improvement Assistance Program; Training received under Section 3).

12. Compensation from State or local employment training programs and training of a family member as resident management staff. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives, and are excluded only for a limited period as determined in advance under the program by the state or local government.

13. A resident service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination. No resident may receive more than one such stipend during the same period of time.

14. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era. Examples include payments by the German and Japanese governments for atrocities committed during the Nazi era. Any individual receiving payments under this paragraph, who has been required to repay housing assistance as a result of receiving such payments, shall not be required to make further repayments on or after April 23, 1993.

    NOTE: Until April 23, 1993, the Department included reparation payments in the determination of Annual Income. On April 25, 1995, the Office of Housing published a notice in the Federal Register (at FR 20356) stating its desire to refund residents for the higher rents they paid (including any repayments they made) because of the previous policy to count reparation payments in Annual Income. See Appendix 16 for an explanation of the Department's intentions. A copy of the notice appears at the end of this exhibit.

15. Deferred periodic payments of supplemental security income and social security benefits that are received in a lump sum payment.

    NOTE: This exclusion became effective for the Section 8 programs on October 28, 1992. For all other programs, this exclusion became effective on May 5, 1995.

16. Payments received for the care of foster children or foster adults. (Foster adults are usually adults with disabilities, who are unrelated to the tenant family, and who are unable to live alone). This term is defined in 24 CFR 215.21(c)(2); 236.3(c)(2); and 813.106(c)(2). (See FR 17393 dated April 5, 1995.)

17. Amounts that are received on behalf of someone who does not reside with the family, as long as the amounts:

a. are not intermingled with the family's funds; and

b. are used solely to benefit the person who does not reside with the family

NOTE: For such amounts to be excluded, the individual must provide the owner with an affidavit stating that the amounts are received on behalf of someone who does not reside with the family and the amounts meet the conditions in paragraphs a and b above. See paragraph 3-17, Income of Temporarily Absent Members.

EXAMPLES

Sarah receives housing assistance. Her 12-year-old sister, Ellen, lives with her mother in other housing in the same city. Sarah has been designated as the Representative Payee for Ellen's SSI payments. The Social Security Administration designated Sarah as a Representative Payee for Ellen because her mother is a heroine addict. Sarah makes sure that Ellen's SSI payments are used exclusively for Ellen.

Mariah receives royalty income which is reported on a Form IRS 1099. Mariah distributes this income to the designated heirs in accordance with her aunt's will and retains only the amount to which she is entitled. Only count the royalty income that is designated specifically for Mariah. Mariah will have to show the owner that she distributes this income to the other heirs.

18. Recurring monetary contributions that are paid directly to a child care provider by persons not living in the unit. This exclusion is based on a handbook interpretation of reimbursed child care expenses under the definition of Adjusted Income and its bearing on Annual Income. (See 24 CFR Parts 813.1, 215.1, and 236.1.) In relevant part, the regulations define child care expenses to include "amounts to be paid by the family for [child care] . . . to the extent [they are] not reimbursed." This handbook interprets the regulations to mean that child care expenses that are reimbursed are not included as annual income.

19. Income excluded by Federal statute:

a. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977.

b. Payments received under Domestic Volunteer Service Act of 1973 (employment through VISTA, Retired Senior Volunteer Program, Foster Grandparents Program, youthful offender incarceration alternatives, senior companions.)

c. The following income:

1) Interests of individual Indians in trust or restricted lands, and the first $2,000 per year of income received by individual Indians that is derived from trust or restricted lands. (25 U.S.C. 1408)

2) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c)) received from a Native Corporation, including:

a) cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed $2,000 per individual per annum;

b) a partnership interest;

c) land or an interest in land (including land or an interest in land received from a Native

Corporation as a dividend or distribution on stock); and

d) an interest in a settlement trust.

NOTE: For paragraphs c and d, some tribal corporations receive payments on individuals' behalf and invest these amounts. The proceeds from these investments are then paid to the individuals. Such amounts also would be excluded from income.

3) Payments from certain submarginal U.S. land held in trust for certain Indian tribes.

4) Payments from disposal of funds of Grand River Bank of Ottawa Indians.

5) The first $2,000 of per capita shares received from judgments awarded by the Indian Claims Commission or the Court of Claims or from funds the Secretary of Interior holds in trust for an Indian tribe.

d. Payments, rebates or credits received under Federal Low-income Home Energy Assistance Programs. Includes any winter differentials given to elderly (e.g., Department of Health and Human Service's Low-income Home Energy Assistance Program).

e. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for native americans and migrant and seasonal farmworkers, Job Corps, veterans

employment programs, State job training programs, career intern programs, AmeriCorps.)

f. Payments received under Title V of the Older Americans Act (Green Thumb, Senior Aides, Older American Community Service Employment Program).

g. Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in the In Re Agent Orange product liability litigation. M.D.L. No. 386 (E.D.N.Y.)

h. Payments received under the Maine Indian Claims settlement Act of 1980. (Pub. L. 96-420, 9z Stat. 1785)

i. Any earned income tax credit to the extent it exceeds income tax liability. (26 U.S.C. 32(j))

j. The Value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (CCDBGA) (42 U.S.C. 9858q). Participating families may either pay a reduced amount based on a sliding fee scale or they may receive a certificate for child care services.

NOTE: This exclusion does not apply to amounts received by a child care provider for services paid through the CCDBGA.

EXAMPLE: The following is excluded from Annual Income. Ms. Nguhen receives a certificate for child care services under CCDBGA.

EXAMPLE: The following is included in Annual Income. Ms. Anderson, an assisted tenant in a Section 8 project, is paid through the CCDBGA for child care services she provides to Ms. Nguhen. The income she receives for providing this child care is included in annual income.

Appendix E

Sample Forms

1. Tenant Income Certification Questionnaire
2. Tenant Income Certification Form
3. Under $5000 Asset Verification Form
4. Employment Verification Form
5. Student Verification Form
6. Zero Income Certification Form

TENANT INCOME CERTIFICATION QUESTIONNAIRE

NAME: _____	**TELEPHONE NUMBER:** ( )
Initial Certification **Re-certification**	**BIN #**_____
Other	**Unit #**_____

INCOME INFORMATION

YES	NO		MONTHLY GROSS INCOME
		I/we am self employed. (List nature of self employment) _____	(use net income from business) $_____
		I/we have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you: Name of Employer 1)_____ 2)_____ 3)_____	 $_____ $_____ $_____
		I/we receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	$_____
		I/we receive unemployment benefits.	$_____
		I/we receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	$_____
		I/we receive periodic social security payments.	$_____
		The household receives unearned income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	$_____
		I/we receive Supplemental Security Income (SSI).	$_____
		I/we receive disability or death benefits other than Social Security.	$_____
		I/we receive Public Assistance Income (examples: TANF, AFDC)	$_____
		I/we am entitled to receive child support payments. I/we am currently receiving child support payments. If yes, from how many persons do you receive support? _____ I/we am/are currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	$_____ $_____
		I/we receive alimony/spousal maintenance payments	$_____
		I/we receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings. If yes, list sources: 1)_____ 2)_____	 $_____ $_____
		I/we receive income from real or personal property.	(use net earned income) $_____

ASSET INFORMATION

YES	NO		INTEREST RATE	CASH VALUE
		I/we have a checking account(s). If yes, list bank(s) 1)_____ 2)_____	 _____% _____%	 $_____ $_____
		I/we have a savings account(s) If yes, list bank(s) 1)_____ 2)_____	 _____% _____%	 $_____ $_____
		I/we have a revocable trust(s) If yes, list bank(s) 1)_____	 _____%	 $_____
		I/we own real estate. If yes, provide description: _____		$_____
		I/we own stocks, bonds, or Treasury Bills If yes, list sources/bank names 1)_____ 2)_____ 3)_____	 _____% _____% _____%	 $_____ $_____ $_____
		I/we have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources/bank names 1)_____ 2)_____ 3)_____	 _____% _____% _____%	 $_____ $_____ $_____
		I/we have an IRA/Lump Sum Penion/Keohg Account/401K. If yes, list bank(s) 1)_____ 2)_____	 _____% _____%	 $_____ $_____
		I/we have a whole life insurance policy. If yes, how many policies _____		$_____
		I/we have cash on hand.		$_____
		I/we have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years. If yes, list items and date disposed: 1)_____ 2)_____		 $_____ $_____
		I/we have income from assets or sources other than those listed above. If yes, list type below: 1)_____ 2)_____	 _____% _____%	 $_____ $_____

STUDENT STATUS

YES	NO	
		Does the household consist of persons who are all full-time students (1st grade and higher. Examples: Elementary, High School, College/University, trade school, etc.)?
		Does your household anticipate becoming a full-time student household in the next 12 months?
		If you answered yes to either of the previous two questions are you: • Receiving assistance under Title IV of the Social Security Act (AFDC/TANF)

	• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program • Married and filing a joint tax return • Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual

UNDER PENALTIES OF PERJURY, I CERTIFY THAT THE INFORMATION PRESENTED ON THIS FORM IS TRUE AND ACCURATE TO THE BEST OF MY/OUR KNOWLEDGE. THE UNDERSIGNED FURTHER UNDERSTANDS THAT PROVIDING FALSE REPRESENTATIONS HEREIN CONSTITUES AN ACT OF FRAUD. FALSE, MISLEADING OR INCOMPLETE INFORMATION WILL RESULT IN THE DENIAL OF APPLICATION OR TERMINATION OF THE LEASE AGREEMENT.

_____	_____	_____
PRINTED NAME OF APPLICANT/TENANT	**SIGNATURE OF APPLICANT/TENANT**	**DATE**
_____		_____
WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE)		**DATE**

TENANT INCOME CERTIFICATION

☐ Initial Certification ☐ Recertification ☐ Other _____

Effective Date: _____
Move-in Date: _____
(MM/DD/YYYY)

PART I - DEVELOPMENT DATA

Property Name: _____ County: _____ BIN #: _____

Address: _____ Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg. No.
1			HEAD			
2						
3						
4						
5						
6						
7						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

HH Mbr #	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income
TOTALS	$	$	$	$

Add totals from (A) through (D), above TOTAL INCOME (E): $

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset
		TOTALS:	$	$

Enter Column (H) Total If over $5000 $_____ X Passbook Rate 2.00% = (J) Imputed Income $

Enter the greater of the total of column I, or J: imputed income **TOTAL INCOME FROM ASSETS (K)** $

(L) Total Annual Household Income from all Sources [Add (E) + (K)] $

HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

Signature	*(Date)*	Signature	*(Date)*
Signature	*(Date)*	Signature	*(Date)*

PART V. DETERMINATION OF INCOME ELIGIBILITY

RECERTIFICATION ONLY:

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES: From item (L) on page 1 $

Household Meets Income Restriction at:

☐ 60% ☐ 50%
☐ 40% ☐ 30%
☐_____%

Current Income Limit x 140%: $

Household Income exceeds 140% at recertification:
☐ Yes ☐No

Current Income Limit per Family Size: $

Household Income at Move-in: $

Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent $

Utility Allowance $

Rent Assistance: $_____

Other non-optional charges: $_____

GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other non-optional charges) $

Unit Meets Rent Restriction at:

❑ 60% ❑ 50% ❑ 40% ❑ 30% ❑_____%

Maximum Rent Limit for this unit: $

PART VII. STUDENT STATUS

ARE ALL OCCUPANTS FULL TIME STUDENTS?

☐ yes ☐ no

If yes, Enter student explanation* (also attach documentation)

Enter 1-4

*Student Explanation:
1 TANF assistance
2 Job Training Program
3 Single parent/dependent child
4 Married/joint return

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit ☐	b. HOME ☐	c. Tax Exempt ☐	d. AHDP ☐	e. _____ ☐ (Name of Program)
See Part V above.	*Income Status* ☐ ≤ 50% AMGI ☐ ≤ 60% AMGI ☐ ≤ 80% AMGI ☐ OI**	*Income Status* ☐ 50% AMGI ☐ 60% AMGI ☐ 80% AMGI ☐ OI**	*Income Status* ☐ 50% AMGI ☐ 80% AMGI ☐ OI**	*Income Status* ☐ _____ ☐ _____ ☐ OI**

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Project.

_____ _____
SIGNATURE OF OWNER/REPRESENTATIVE DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date	Enter the date the tenant has or will take occupancy of the unit.
Effective Date	Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.
Property Name	Enter the name of the development.
County	Enter the county (or equivalent) in which the building is located.
BIN #	Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).
Address	Enter the address of the building.
Unit Number	Enter the unit number.
# Bedrooms	Enter the number of bedrooms in the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H	-	Head of Household	S	-	Spouse
A	-	Adult co-tenant	O	-	Other family member
C	-	Child	F	-	Foster child(ren)/adult(s)
L	-	Live-in caretaker	N	-	None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A)	Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.
Column (B)	Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.

Column (C)	Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).
Column (D)	Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.
Row (E)	Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.

If the total in Column (H) is greater than $5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.

Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.

Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

**Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

Tax Credit	See Part V above.
HOME	If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicting the household's designation.
Tax Exempt	If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household's designation.
AHDP	If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicting the household's designation.
Other	If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

UNDER $5,000 ASSET CERTIFICATION

For households whose combined net assets do not exceed $5,000.
Complete only one form per household; include assets of children.

Household Name:_____ Unit No. _____

Development Name: _____ City:_____

Complete all that apply for 1 through 4:

1. My/our assets include:

(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source	(A) Cash Value*	(B) Int. Rate	(A*B) Annual Income	Source
$		$	Savings Account	$		$	Checking Account
$		$	Cash on Hand	$		$	Safety Deposit Box
$		$	Certificates of Deposit	$		$	Money market funds
$		$	Stocks	$		$	Bonds
$		$	IRA Accounts	$		$	401K Accounts
$		$	Keogh Accounts	$		$	Trust Funds
$		$	Equity in real estate	$		$	Land Contracts
$		$	Lump Sum Receipts	$		$	Capital investments
$		$	Life Insurance Policies (excluding Term)				
$		$	Other Retirement/Pension Funds not named above: _____				
$		$	Personal property held as an investment** : _____				
$		$	Other (list): _____				

PLEASE NOTE: Certain funds (e.g., Retirement, Pension, Trust) may or may not be (fully) accessible to you. Include only those amounts which are.

*Cash value is defined as market value minus the cost of converting the asset to cash, such as broker's fees, settlement costs, outstanding loans, early withdrawal penalties, etc.

**Personal property held as an investment may include, but is not limited to, gem or coin collections, art, antique cars, etc. Do not include necessary personal property such as, but not necessarily limited to, household furniture, daily-use autos, clothing, assets of an active business, or special equipment for use by the disabled.

2. ☐ Within the past two (2) years, I/we have sold or given away assets (including cash, real estate, etc.) for more than $1,000 below their fair market value (FMV). Those amounts* are included above and are equal to a total of: $_____ (*the difference between FMV and the amount received, for each asset on which this occurred).

3. ☐ I/we have not sold or given away assets (including cash, real estate, etc.) for less than fair market value during the past two (2) years.

4. ☐ I/we do not have any assets at this time.

The net family assets (as defined in 24 CFR 813.102) above do not exceed $5,000 and the annual income from the net family assets is $_____. This amount is included in total gross annual income.

Under penalty of perjury, I/we certify that the information presented in this certification is true and accurate to the best of my/our knowledge. The undersigned further understand(s) that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of a lease agreement.

_____ _____ _____ _____
Applicant/Tenant Date Applicant/Tenant Date

EMPLOYMENT VERIFICATION

THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY TENANT

TO: (Name & address of employer) Date: _____

_____

_____

_____

RE: _____ _____ _____
Applicant/Tenant Name Social Security Number Unit # (if assigned)

I hereby authorize release of my employment information.

_____ _____
Signature of Applicant/Tenant Date

The individual named directly above is an applicant/tenant of a housing program that requires verification of income. The information provided will remain confidential to satisfaction of that stated purpose only. Your prompt response is crucial and greatly appreciated.

,

_____
Project Owner/Management Agent

Return Form To:

THIS SECTION TO BE COMPLETED BY EMPLOYER

Employee Name: _____ Job Title: _____

Presently Employed: Yes ____ Date First Employed _____ No ____ Last Day of Employment _____

Current Wages/Salary: $_____ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other_____

Average # of regular hours per week: _____ Year-to-date earnings: $_____ through __/____/____

Overtime Rate: $_____ per hour Average # of overtime hours per week: _____

Shift Differential Rate: $_____ per hour Average # of shift differential hours per week: _____

Commissions, bonuses, tips, other: $_____ (circle one) hourly weekly bi-weekly semi-monthly monthly yearly other_____

List any anticipated change in the employee's rate of pay within the next 12 months: _____; Effective date: _____

If the employee's work is seasonal or sporadic, please indicate the layoff period(s): _____

Additional remarks: _____

_____ _____ _____
Employer's Signature Employer's Printed Name Date

_____
Employer [Company] Name and Address

_____ _____ _____
Phone # Fax # E-mail

NOTE: Section 1001 of Title 18 of the U.S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

STUDENT VERIFICATION

THIS SECTION TO BE COMPLETED BY MANAGEMENT AND EXECUTED BY STUDENT

This Student Verification is being delivered in connection with the undersigned's eligibility for residency in the following apartment:

Project Name: _____

Building Address: _____

Unit Number if assigned: _____

I hereby grant disclosure of the information requested below from _____
Name of Educational Institution

_____ Signature

_____ Date

_____ Printed Name

_____ Student ID#

Return Form to:

THIS SECTION TO BE COMPLETED BY EDUCATIONAL INSTITUTION

The above-named individual has applied for residency or is currently residing in housing that requires verification of student status. Please provide the information requested below:

Is the above-named individual a student at this educational institution? YES NO

If so, part-time or full-time? PART-TIME FULL-TIME

If full-time, the date the student enrolled as such: _____

Expected date of graduation: _____

I hereby certify that the information supplied in this section is true and complete to the best of my knowledge.

Signature: _____ Date: _____

Print your name: _____ Tel. #: _____

Title: _____

Educational Institution: _____

NOTE: Section 1001 of Title 18 of the U. S. Code makes it a criminal offense to make willful false statements or misrepresentations to any Department or Agency of the United States as to any matter within its jurisdiction.

CERTIFICATION OF ZERO INCOME

(To be completed by adult household members only, if appropriate.)

Household Name:_____ Unit No. _____

Development Name: _____ City:_____

1. I hereby certify that I do not individually receive income from any of the following sources:

   a. Wages from employment (including commissions, tips, bonuses, fees, etc.);

   b. Income from operation of a business;

   c. Rental income from real or personal property;

   d. Interest or dividends from assets;

   e. Social Security payments, annuities, insurance policies, retirement funds, pensions, or death benefits;

   f. Unemployment or disability payments;

   g. Public assistance payments;

   h. Periodic allowances such as alimony, child support, or gifts received from persons not living in my household;

   i. Sales from self-employed resources (Avon, Mary Kay, Shaklee, etc.);

   j. Any other source not named above.

2. I currently have no income of any kind and there is no imminent change expected in my financial status or employment status during the next 12 months.

3. I will be using the following sources of funds to pay for rent and other necessities: _____

   _____

Under penalty of perjury, I certify that the information presented in this certification is true and accurate to the best of my knowledge. The undersigned further understand(s) that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of a lease agreement.

_____	_____	_____
Signature of Applicant/Tenant	Printed Name of Applicant/Tenant	Date

Appendix F

Rental Housing Tax Credit Income & Rent Schedules

To: Participants of the Rental Housing Tax Credit (RHTC) Program Notice: RHTC 00-02
From: RHTC Compliance Staff
Date: March 13, 2000
Re: 2000 Income and Rent Limits & Tax Credit Compliance Reporting Web Site

Attached is a copy of the HUD 2000 Income and Rent Limits for the Rental Housing Tax Credit (RHTC) Program. This information supersedes the 1999 Income and Rent Limits and should be used accordingly by participants and developments competing for future tax credits. This information has been provided only for your convenience as a courtesy. However, it is the responsibility of the Developer/Owner, and not the Indiana Housing Finance Authority (IHFA), to verify its accuracy.

This information was published by HUD on March 9, 2000, and is now posted on IHFA's web site at www.indianahousing.org. Existing active developments must implement the 2000 Income and Rent Limits within 45 days of the HUD publishing date.

Additionally, in February, IHFA made available to all RHTC developments the RHTC Compliance Reporting Web Site. This web site is a special web page set up specifically for owners and management companies with internet access to submit the tenant information they have to submit each year to IHFA with their Owner Certification of Compliance. This web site will allow an owner to input information throughout the year as move-in, move-out, and re-certification events occur.

Only those owners that have a subscription agreement with a username and password can access the RHTC Compliance Reporting Web Site. To use this service, please note the subscription agreement application included in this mailer. By obtaining an Access Indiana (AI) subscription, you will receive a user name and password allowing you to access the RHTC Compliance Reporting Web Site. Owners and/or management companies can then go to the web site as often as they like, as many times a day, week, month, or year at no charge.

The owner will not be charged at all for the Tax Credit Compliance Reporting service! IHFA will pay the $50 subscription fee for the owner when the owner subscribes to the service. Also, it is very important to note that the annual monitoring fee for developments that do not use the web site is considerably higher. See the 2000 Qualified Allocation Plan, Schedule E, Page 33, for exact charges.

If you have any questions, please feel free to telephone us at (317) 232-7777. Melanie Reusze, Michelle Rogers, or Dianna O'Rourke will be happy to help you.

Indiana Housing Finance Authority
115 W. Washington St.
Suite, 1350, South Tower
Indianapolis, IN 46204

(317) 232-7777
(800) 872-0371
www.indianahousing.org

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
30% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
ADAMS	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,300	20,500
ALLEN	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,300	20,500
BARTHOLOMEW	10,450	11,950	13,400	14,900	16,100	17,300	18,500	19,700	20,850
BENTON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
BLACKFORD	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
BOONE	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
BROWN	9,900	11,300	12,700	14,150	15,250	16,400	17,500	18,650	19,800
CARROLL	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
CASS	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
CLARK	10,100	11,550	13,000	14,450	15,600	16,750	17,900	19,050	20,200
CLAY	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
CLINTON	11,500	13,150	14,750	16,400	17,700	19,050	20,350	21,650	22,950
CRAWFORD	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
DAVIESS	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
DEARBORN	10,950	12,550	14,100	15,650	16,900	18,150	19,400	20,650	21,900
DECATUR	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
DEKALB	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,300	20,500
DELAWARE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
DUBOIS	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
ELKHART	10,900	12,450	14,000	15,550	16,800	18,050	19,250	20,500	21,750
FAYETTE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
FLOYD	10,100	11,550	13,000	14,450	15,600	16,750	17,900	19,050	20,200
FOUNTAIN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
FRANKLIN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
FULTON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
GIBSON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
GRANT	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
GREENE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
HAMILTON	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
HANCOCK	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
HARRISON	10,100	11,550	13,000	14,450	15,600	16,750	17,900	19,050	20,200
HENDRICKS	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
HENRY	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
HOWARD	10,750	12,250	13,800	15,350	16,550	17,800	19,000	20,250	21,450
HUNTINGTON	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,300	20,500
JACKSON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
JASPER	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
JAY	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
JEFFERSON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
JENNINGS	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
JOHNSON	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
KNOX	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
KOSCIUSKO	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
LAGRANGE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
LAKE	11,300	12,900	14,550	16,150	17,450	18,700	20,000	21,300	22,600
LAPORTE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
LAWRENCE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
MADISON	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
MARION	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
30% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
MARSHALL	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
MARTIN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
MIAMI	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
MONROE	10,400	11,900	13,400	14,900	16,050	17,250	18,450	19,650	20,850
MONTGOME	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
MORGAN	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
NEWTON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
NOBLE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
OHIO	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
ORANGE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
OWEN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
PARKE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
PERRY	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
PIKE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
PORTER	11,300	12,900	14,550	16,150	17,450	18,700	20,000	21,300	22,600
POSEY	10,000	11,400	12,850	14,300	15,400	16,550	17,700	18,850	20,000
PULASKI	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
PUTNAM	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
RANDOLPH	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
RIPLEY	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
RUSH	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
ST. JOSEPH	10,750	12,300	13,850	15,400	16,600	17,850	19,100	20,300	21,550
SCOTT	10,100	11,550	13,000	14,450	15,600	16,750	17,900	19,050	20,200
SHELBY	11,150	12,700	14,300	15,900	17,150	18,450	19,700	21,000	22,250
SPENCER	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
STARKE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
STEUBEN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
SULLIVAN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
SWITZERLAND	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
TIPPECANOE	11,500	13,150	14,750	16,400	17,700	19,050	20,350	21,650	22,950
TIPTON	10,750	12,250	13,800	15,350	16,550	17,800	19,000	20,250	21,450
UNION	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
VANDERBURG	10,000	11,400	12,850	14,300	15,400	16,550	17,700	18,850	20,000
VERMILLION	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
VIGO	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
WABASH	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
WARREN	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
WARRICK	10,000	11,400	12,850	14,300	15,400	16,550	17,700	18,850	20,000
WASHINGTON	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
WAYNE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
WELLS	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,300	20,500
WHITE	9,650	11,050	12,400	13,800	14,900	16,000	17,100	18,200	19,300
WHITLEY	10,250	11,700	13,200	14,650	15,800	17,000	18,150	19,300	20,500

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
40% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
ADAMS	13,680	15,600	17,560	19,520	21,080	22,640	24,200	25,760	27,320
ALLEN	13,680	15,600	17,560	19,520	21,080	22,640	24,200	25,760	27,320
BARTHOLOMEW	13,920	15,920	17,880	19,880	21,480	23,080	24,640	26,240	27,840
BENTON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
BLACKFORD	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
BOONE	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
BROWN	13,200	15,080	16,960	18,840	20,360	21,840	23,360	24,880	26,360
CARROLL	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
CASS	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
CLARK	13,480	15,400	17,320	19,240	20,760	22,320	23,840	25,400	26,920
CLAY	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
CLINTON	15,320	17,520	19,680	21,880	23,640	25,400	27,120	28,880	30,640
CRAWFORD	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
DAVIESS	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
DEARBORN	14,600	16,720	18,800	20,880	22,560	24,240	25,880	27,560	29,240
DECATUR	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
DEKALB	13,680	15,600	17,560	19,520	21,080	22,640	24,200	25,760	27,320
DELAWARE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
DUBOIS	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
ELKHART	14,520	16,560	18,640	20,720	22,360	24,040	25,680	27,360	29,000
FAYETTE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
FLOYD	13,480	15,400	17,320	19,240	20,760	22,320	23,840	25,400	26,920
FOUNTAIN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
FRANKLIN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
FULTON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
GIBSON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
GRANT	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
GREENE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
HAMILTON	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
HANCOCK	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
HARRISON	13,480	15,400	17,320	19,240	20,760	22,320	23,840	25,400	26,920
HENDRICKS	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
HENRY	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
HOWARD	14,320	16,360	18,400	20,440	22,080	23,720	25,360	27,000	28,600
HUNTINGTON	13,680	15,600	17,560	19,520	21,080	22,640	24,200	25,760	27,320
JACKSON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
JASPER	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
JAY	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
JEFFERSON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
JENNINGS	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
JOHNSON	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
KNOX	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
KOSCIUSKO	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
LAGRANGE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
LAKE	15,080	17,200	19,360	21,520	23,240	24,960	26,680	28,400	30,120
LAPORTE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
LAWRENCE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
MADISON	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
MARION	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
MARSHALL	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
MARTIN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
40% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
MIAMI	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
MONROE	13,880	15,880	17,840	19,840	21,440	23,000	24,600	26,200	27,760
MONTGOMI	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
MORGAN	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
NEWTON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
NOBLE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
OHIO	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
ORANGE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
OWEN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
PARKE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
PERRY	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
PIKE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
PORTER	15,080	17,200	19,360	21,520	23,240	24,960	26,680	28,400	30,120
POSEY	13,320	15,240	17,120	19,040	20,560	22,080	23,600	25,120	26,640
PULASKI	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
PUTNAM	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
RANDOLPH	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
RIPLEY	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
RUSH	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
ST. JOSEPH	14,360	16,400	18,480	20,520	22,160	23,800	25,440	27,080	28,720
SCOTT	13,480	15,400	17,320	19,240	20,760	22,320	23,840	25,400	26,920
SHELBY	14,840	16,960	19,080	21,200	22,880	24,600	26,280	28,000	29,680
SPENCER	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
STARKE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
STEUBEN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
SULLIVAN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
SWITZERLAND	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
TIPPECANOE	15,320	17,520	19,680	21,880	23,640	25,400	27,120	28,880	30,640
TIPTON	14,320	16,360	18,400	20,440	22,080	23,720	25,360	27,000	28,600
UNION	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
VANDERBURG	13,320	15,240	17,120	19,040	20,560	22,080	23,600	25,120	26,640
VERMILLION	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
VIGO	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
WABASH	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
WARREN	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
WARRICK	13,320	15,240	17,120	19,040	20,560	22,080	23,600	25,120	26,640
WASHINGTON	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
WAYNE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
WELLS	13,680	15,600	17,560	19,520	21,080	22,640	24,200	25,760	27,320
WHITE	12,880	14,720	16,560	18,400	19,880	21,360	22,800	24,280	25,760
WHITLEY	13,680	15,600	17,560	19,520	21,080	22,640	24,200	25,760	27,320

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
50% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
ADAMS	17,100	19,500	21,950	24,400	26,350	28,300	30,250	32,200	34,150
ALLEN	17,100	19,500	21,950	24,400	26,350	28,300	30,250	32,200	34,150
BARTHOLOMEW	17,400	19,900	22,350	24,850	26,850	28,850	30,800	32,800	34,800
BENTON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
BLACKFORD	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
BOONE	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
BROWN	16,500	18,850	21,200	23,550	25,450	27,300	29,200	31,100	32,950
CARROLL	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
CASS	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
CLARK	16,850	19,250	21,650	24,050	25,950	27,900	29,800	31,750	33,650
CLAY	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
CLINTON	19,150	21,900	24,600	27,350	29,550	31,750	33,900	36,100	38,300
CRAWFORD	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
DAVIESS	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
DEARBORN	18,250	20,900	23,500	26,100	28,200	30,300	32,350	34,450	36,550
DECATUR	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
DEKALB	17,100	19,500	21,950	24,400	26,350	28,300	30,250	32,200	34,150
DELAWARE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
DUBOIS	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
ELKHART	18,150	20,700	23,300	25,900	27,950	30,050	32,100	34,200	36,250
FAYETTE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
FLOYD	16,850	19,250	21,650	24,050	25,950	27,900	29,800	31,750	33,650
FOUNTAIN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
FRANKLIN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
FULTON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
GIBSON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
GRANT	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
GREENE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
HAMILTON	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
HANCOCK	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
HARRISON	16,850	19,250	21,650	24,050	25,950	27,900	29,800	31,750	33,650
HENDRICKS	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
HENRY	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
HOWARD	17,900	20,450	23,000	25,550	27,600	29,650	31,700	33,750	35,750
HUNTINGTON	17,100	19,500	21,950	24,400	26,350	28,300	30,250	32,200	34,150
JACKSON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
JASPER	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
JAY	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
JEFFERSON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
JENNINGS	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
JOHNSON	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
KNOX	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
KOSCIUSKO	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
LAGRANGE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
LAKE	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500	37,650
LAPORTE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
LAWRENCE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
MADISON	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
MARION	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
MARSHALL	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
MARTIN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
MIAMI	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
MONROE	17,350	19,850	22,300	24,800	26,800	28,750	30,750	32,750	34,700
MONTGOMERY	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
MORGAN	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
50% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
NEWTON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
NOBLE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
OHIO	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
ORANGE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
OWEN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
PARKE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
PERRY	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
PIKE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
PORTER	18,850	21,500	24,200	26,900	29,050	31,200	33,350	35,500	37,650
POSEY	16,650	19,050	21,400	23,800	25,700	27,600	29,500	31,400	33,300
PULASKI	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
PUTNAM	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
RANDOLPH	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
RIPLEY	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
RUSH	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
ST. JOSEPH	17,950	20,500	23,100	25,650	27,700	29,750	31,800	33,850	35,900
SCOTT	16,850	19,250	21,650	24,050	25,950	27,900	29,800	31,750	33,650
SHELBY	18,550	21,200	23,850	26,500	28,600	30,750	32,850	35,000	37,100
SPENCER	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
STARKE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
STEUBEN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
SULLIVAN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
SWITZERLAND	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
TIPPECANOE	19,150	21,900	24,600	27,350	29,550	31,750	33,900	36,100	38,300
TIPTON	17,900	20,450	23,000	25,550	27,600	29,650	31,700	33,750	35,750
UNION	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
VANDERBURG	16,650	19,050	21,400	23,800	25,700	27,600	29,500	31,400	33,300
VERMILLION	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
VIGO	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
WABASH	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
WARREN	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
WARRICK	16,650	19,050	21,400	23,800	25,700	27,600	29,500	31,400	33,300
WASHINGTON	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
WAYNE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
WELLS	17,100	19,500	21,950	24,400	26,350	28,300	30,250	32,200	34,150
WHITE	16,100	18,400	20,700	23,000	24,850	26,700	28,500	30,350	32,200
WHITLEY	17,100	19,500	21,950	24,400	26,350	28,300	30,250	32,200	34,150

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
60% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
ADAMS	20,520	23,400	26,340	29,280	31,620	33,960	36,300	38,640	40,980
ALLEN	20,520	23,400	26,340	29,280	31,620	33,960	36,300	38,640	40,980
BARTHOLOMEW	20,880	23,880	26,820	29,820	32,220	34,620	36,960	39,360	41,760
BENTON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
BLACKFORD	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
BOONE	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
BROWN	19,800	22,620	25,440	28,260	30,540	32,760	35,040	37,320	39,540
CARROLL	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
CASS	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
CLARK	20,220	23,100	25,980	28,860	31,140	33,480	35,760	38,100	40,380
CLAY	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
CLINTON	22,980	26,280	29,520	32,820	35,460	38,100	40,680	43,320	45,960
CRAWFORD	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
DAVIESS	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
DEARBORN	21,900	25,080	28,200	31,320	33,840	36,360	38,820	41,340	43,860
DECATUR	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
DEKALB	20,520	23,400	26,340	29,280	31,620	33,960	36,300	38,640	40,980
DELAWARE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
DUBOIS	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
ELKHART	21,780	24,840	27,960	31,080	33,540	36,060	38,520	41,040	43,500
FAYETTE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
FLOYD	20,220	23,100	25,980	28,860	31,140	33,480	35,760	38,100	40,380
FOUNTAIN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
FRANKLIN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
FULTON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
GIBSON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
GRANT	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
GREENE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
HAMILTON	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
HANCOCK	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
HARRISON	20,220	23,100	25,980	28,860	31,140	33,480	35,760	38,100	40,380
HENDRICKS	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
HENRY	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
HOWARD	21,480	24,540	27,600	30,660	33,120	35,580	38,040	40,500	42,900
HUNTINGTON	20,520	23,400	26,340	29,280	31,620	33,960	36,300	38,640	40,980
JACKSON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
JASPER	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
JAY	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
JEFFERSON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
JENNINGS	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
JOHNSON	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
KNOX	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
KOSCIUSKO	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
LAGRANGE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
LAKE	22,620	25,800	29,040	32,280	34,860	37,440	40,020	42,600	45,180
LAPORTE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
LAWRENCE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
MADISON	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
MARION	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
60% AREA MEDIAN INCOME SCHEDULE

COUNTY	1 PERSON	2 PERSON	3 PERSON	4 PERSON	5 PERSON	6 PERSON	7 PERSON	8 PERSON	9 PERSON
MARSHALL	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
MARTIN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
MIAMI	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
MONROE	20,820	23,820	26,760	29,760	32,160	34,500	36,900	39,300	41,640
MONTGOM	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
MORGAN	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
NEWTON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
NOBLE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
OHIO	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
ORANGE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
OWEN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
PARKE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
PERRY	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
PIKE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
PORTER	22,620	25,800	29,040	32,280	34,860	37,440	40,020	42,600	45,180
POSEY	19,980	22,860	25,680	28,560	30,840	33,120	35,400	37,680	39,960
PULASKI	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
PUTNAM	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
RANDOLPH	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
RIPLEY	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
RUSH	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
ST. JOSEPH	21,540	24,600	27,720	30,780	33,240	35,700	38,160	40,620	43,080
SCOTT	20,220	23,100	25,980	28,860	31,140	33,480	35,760	38,100	40,380
SHELBY	22,260	25,440	28,620	31,800	34,320	36,900	39,420	42,000	44,520
SPENCER	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
STARKE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
STEUBEN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
SULLIVAN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
SWITZERLAND	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
TIPPECANOE	22,980	26,280	29,520	32,820	35,460	38,100	40,680	43,320	45,960
TIPTON	21,480	24,540	27,600	30,660	33,120	35,580	38,040	40,500	42,900
UNION	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
VANDERBURG	19,980	22,860	25,680	28,560	30,840	33,120	35,400	37,680	39,960
VERMILLION	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
VIGO	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
WABASH	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
WARREN	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
WARRICK	19,980	22,860	25,680	28,560	30,840	33,120	35,400	37,680	39,960
WASHINGTON	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
WAYNE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
WELLS	20,520	23,400	26,340	29,280	31,620	33,960	36,300	38,640	40,980
WHITE	19,320	22,080	24,840	27,600	29,820	32,040	34,200	36,420	38,640
WHITLEY	20,520	23,400	26,340	29,280	31,620	33,960	36,300	38,640	40,980

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
30% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
ADAMS	256	274	330	381	425	468	513
ALLEN	256	274	330	381	425	468	513
BARTHOLOMEW	261	280	335	388	433	478	521
BENTON	241	259	310	359	400	441	483
BLACKFORD	241	259	310	359	400	441	483
BOONE	279	298	358	413	461	509	556
BROWN	248	265	318	368	410	452	495
CARROLL	241	259	310	359	400	441	483
CASS	241	259	310	359	400	441	483
CLARK	253	271	325	376	419	462	505
CLAY	241	259	310	359	400	441	483
CLINTON	288	308	369	426	476	525	574
CRAWFORD	241	259	310	359	400	441	483
DAVIESS	241	259	310	359	400	441	483
DEARBORN	274	294	353	407	454	501	548
DECATUR	241	259	310	359	400	441	483
DEKALB	256	274	330	381	425	468	513
DELAWARE	241	259	310	359	400	441	483
DUBOIS	241	259	310	359	400	441	483
ELKHART	273	292	350	404	451	497	544
FAYETTE	241	259	310	359	400	441	483
FLOYD	253	271	325	376	419	462	505
FOUNTAIN	241	259	310	359	400	441	483
FRANKLIN	241	259	310	359	400	441	483
FULTON	241	259	310	359	400	441	483
GIBSON	241	259	310	359	400	441	483
GRANT	241	259	310	359	400	441	483
GREENE	241	259	310	359	400	441	483
HAMILTON	279	298	358	413	461	509	556
HANCOCK	279	298	358	413	461	509	556
HARRISON	253	271	325	376	419	462	505
HENDRICKS	279	298	358	413	461	509	556
HENRY	241	259	310	359	400	441	483
HOWARD	269	288	345	399	445	491	536
HUNTINGTON	256	274	330	381	425	468	513
JACKSON	241	259	310	359	400	441	483
JASPER	241	259	310	359	400	441	483
JAY	241	259	310	359	400	441	483
JEFFERSON	241	259	310	359	400	441	483
JENNINGS	241	259	310	359	400	441	483
JOHNSON	279	298	358	413	461	509	556
KNOX	241	259	310	359	400	441	483
KOSCIUSKO	241	259	310	359	400	441	483
LAGRANGE	241	259	310	359	400	441	483
LAKE	283	303	364	420	468	516	565
LAPORTE	241	259	310	359	400	441	483
LAWRENCE	241	259	310	359	400	441	483
MADISON	279	298	358	413	461	509	556
MARION	279	298	358	413	461	509	556

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
30% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
MARSHALL	241	259	310	359	400	441	483
MARTIN	241	259	310	359	400	441	483
MIAMI	241	259	310	359	400	441	483
MONROE	260	279	335	387	431	476	521
MONTGOMERY	241	259	310	359	400	441	483
MORGAN	279	298	358	413	461	509	556
NEWTON	241	259	310	359	400	441	483
NOBLE	241	259	310	359	400	441	483
OHIO	241	259	310	359	400	441	483
ORANGE	241	259	310	359	400	441	483
OWEN	241	259	310	359	400	441	483
PARKE	241	259	310	359	400	441	483
PERRY	241	259	310	359	400	441	483
PIKE	241	259	310	359	400	441	483
PORTER	283	303	364	420	468	516	565
POSEY	250	268	321	371	414	457	500
PULASKI	241	259	310	359	400	441	483
PUTNAM	241	259	310	359	400	441	483
RANDOLPH	241	259	310	359	400	441	483
RIPLEY	241	259	310	359	400	441	483
RUSH	241	259	310	359	400	441	483
ST. JOSEPH	269	288	346	400	446	493	539
SCOTT	253	271	325	376	419	462	505
SHELBY	279	298	358	413	461	509	556
SPENCER	241	259	310	359	400	441	483
STARKE	241	259	310	359	400	441	483
STEUBEN	241	259	310	359	400	441	483
SULLIVAN	241	259	310	359	400	441	483
SWITZERLAND	241	259	310	359	400	441	483
TIPPECANOE	288	308	369	426	476	525	574
TIPTON	269	288	345	399	445	491	536
UNION	241	259	310	359	400	441	483
VANDERBURG	250	268	321	371	414	457	500
VERMILLION	241	259	310	359	400	441	483
VIGO	241	259	310	359	400	441	483
WABASH	241	259	310	359	400	441	483
WARREN	241	259	310	359	400	441	483
WARRICK	250	268	321	371	414	457	500
WASHINGTON	241	259	310	359	400	441	483
WAYNE	241	259	310	359	400	441	483
WELLS	256	274	330	381	425	468	513
WHITE	241	259	310	359	400	441	483
WHITLEY	256	274	330	381	425	468	513

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
40% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
ADAMS	342	366	439	508	566	625	683
ALLEN	342	366	439	508	566	625	683
BARTHOLOMEW	348	373	447	517	577	636	696
BENTON	322	345	414	479	534	589	644
BLACKFORD	322	345	414	479	534	589	644
BOONE	371	398	477	551	615	679	742
BROWN	330	354	424	490	546	603	659
CARROLL	322	345	414	479	534	589	644
CASS	322	345	414	479	534	589	644
CLARK	337	361	433	500	558	616	673
CLAY	322	345	414	479	534	589	644
CLINTON	383	411	492	569	635	700	766
CRAWFORD	322	345	414	479	534	589	644
DAVIESS	322	345	414	479	534	589	644
DEARBORN	365	392	470	543	606	668	731
DECATUR	322	345	414	479	534	589	644
DEKALB	342	366	439	508	566	625	683
DELAWARE	322	345	414	479	534	589	644
DUBOIS	322	345	414	479	534	589	644
ELKHART	363	389	466	539	601	663	725
FAYETTE	322	345	414	479	534	589	644
FLOYD	337	361	433	500	558	616	673
FOUNTAIN	322	345	414	479	534	589	644
FRANKLIN	322	345	414	479	534	589	644
FULTON	322	345	414	479	534	589	644
GIBSON	322	345	414	479	534	589	644
GRANT	322	345	414	479	534	589	644
GREENE	322	345	414	479	534	589	644
HAMILTON	371	398	477	551	615	679	742
HANCOCK	371	398	477	551	615	679	742
HARRISON	337	361	433	500	558	616	673
HENDRICKS	371	398	477	551	615	679	742
HENRY	322	345	414	479	534	589	644
HOWARD	358	384	460	532	593	655	715
HUNTINGTON	342	366	439	508	566	625	683
JACKSON	322	345	414	479	534	589	644
JASPER	322	345	414	479	534	589	644
JAY	322	345	414	479	534	589	644
JEFFERSON	322	345	414	479	534	589	644
JENNINGS	322	345	414	479	534	589	644
JOHNSON	371	398	477	551	615	679	742
KNOX	322	345	414	479	534	589	644
KOSCIUSKO	322	345	414	479	534	589	644
LAGRANGE	322	345	414	479	534	589	644
LAKE	377	404	484	560	624	689	753
LAPORTE	322	345	414	479	534	589	644
LAWRENCE	322	345	414	479	534	589	644
MADISON	371	398	477	551	615	679	742
MARION	371	398	477	551	615	679	742
MARSHALL	322	345	414	479	534	589	644
MARTIN	322	345	414	479	534	589	644

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
40% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
MIAMI	322	345	414	479	534	589	644
MONROE	347	372	446	516	575	635	694
MONTGOMERY	322	345	414	479	534	589	644
MORGAN	371	398	477	551	615	679	742
NEWTON	322	345	414	479	534	589	644
NOBLE	322	345	414	479	534	589	644
OHIO	322	345	414	479	534	589	644
ORANGE	322	345	414	479	534	589	644
OWEN	322	345	414	479	534	589	644
PARKE	322	345	414	479	534	589	644
PERRY	322	345	414	479	534	589	644
PIKE	322	345	414	479	534	589	644
PORTER	377	404	484	560	624	689	753
POSEY	333	357	428	495	552	609	666
PULASKI	322	345	414	479	534	589	644
PUTNAM	322	345	414	479	534	589	644
RANDOLPH	322	345	414	479	534	589	644
RIPLEY	322	345	414	479	534	589	644
RUSH	322	345	414	479	534	589	644
ST. JOSEPH	359	385	462	534	595	657	718
SCOTT	337	361	433	500	558	616	673
SHELBY	371	398	477	551	615	679	742
SPENCER	322	345	414	479	534	589	644
STARKE	322	345	414	479	534	589	644
STEUBEN	322	345	414	479	534	589	644
SULLIVAN	322	345	414	479	534	589	644
SWITZERLAND	322	345	414	479	534	589	644
TIPPECANOE	383	411	492	569	635	700	766
TIPTON	358	384	460	532	593	655	715
UNION	322	345	414	479	534	589	644
VANDERBURG	333	357	428	495	552	609	666
VERMILLION	322	345	414	479	534	589	644
VIGO	322	345	414	479	534	589	644
WABASH	322	345	414	479	534	589	644
WARREN	322	345	414	479	534	589	644
WARRICK	333	357	428	495	552	609	666
WASHINGTON	322	345	414	479	534	589	644
WAYNE	322	345	414	479	534	589	644
WELLS	342	366	439	508	566	625	683
WHITE	322	345	414	479	534	589	644
WHITLEY	342	366	439	508	566	625	683

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
50% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
ADAMS	428	458	549	634	708	781	854
ALLEN	428	458	549	634	708	781	854
BARTHOLOMEW	435	466	559	646	721	795	870
BENTON	403	431	518	598	668	736	805
BLACKFORD	403	431	518	598	668	736	805
BOONE	464	497	596	689	769	848	928
BROWN	413	442	530	613	683	754	824
CARROLL	403	431	518	598	668	736	805
CASS	403	431	518	598	668	736	805
CLARK	421	451	541	625	698	769	841
CLAY	403	431	518	598	668	736	805
CLINTON	479	513	615	711	794	875	958
CRAWFORD	403	431	518	598	668	736	805
DAVIESS	403	431	518	598	668	736	805
DEARBORN	456	489	588	679	758	835	914
DECATUR	403	431	518	598	668	736	805
DEKALB	428	458	549	634	708	781	854
DELAWARE	403	431	518	598	668	736	805
DUBOIS	403	431	518	598	668	736	805
ELKHART	454	486	583	673	751	829	906
FAYETTE	403	431	518	598	668	736	805
FLOYD	421	451	541	625	698	769	841
FOUNTAIN	403	431	518	598	668	736	805
FRANKLIN	403	431	518	598	668	736	805
FULTON	403	431	518	598	668	736	805
GIBSON	403	431	518	598	668	736	805
GRANT	403	431	518	598	668	736	805
GREENE	403	431	518	598	668	736	805
HAMILTON	464	497	596	689	769	848	928
HANCOCK	464	497	596	689	769	848	928
HARRISON	421	451	541	625	698	769	841
HENDRICKS	464	497	596	689	769	848	928
HENRY	403	431	518	598	668	736	805
HOWARD	448	479	575	664	741	818	894
HUNTINGTON	428	458	549	634	708	781	854
JACKSON	403	431	518	598	668	736	805
JASPER	403	431	518	598	668	736	805
JAY	403	431	518	598	668	736	805
JEFFERSON	403	431	518	598	668	736	805
JENNINGS	403	431	518	598	668	736	805
JOHNSON	464	497	596	689	769	848	928
KNOX	403	431	518	598	668	736	805
KOSCIUSKO	403	431	518	598	668	736	805
LAGRANGE	403	431	518	598	668	736	805
LAKE	471	504	605	699	780	861	941
LAPORTE	403	431	518	598	668	736	805
LAWRENCE	403	431	518	598	668	736	805
MADISON	464	497	596	689	769	848	928
MARION	464	497	596	689	769	848	928
MARSHALL	403	431	518	598	668	736	805
MARTIN	403	431	518	598	668	736	805
MIAMI	403	431	518	598	668	736	805
MONROE	434	465	558	645	719	794	868
MONTGOMERY	403	431	518	598	668	736	805
MORGAN	464	497	596	689	769	848	928
NEWTON	403	431	518	598	668	736	805
NOBLE	403	431	518	598	668	736	805
OHIO	403	431	518	598	668	736	805
ORANGE	403	431	518	598	668	736	805
OWEN	403	431	518	598	668	736	805
PARKE	403	431	518	598	668	736	805

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
50% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
PERRY	403	431	518	598	668	736	805
PIKE	403	431	518	598	668	736	805
PORTER	471	504	605	699	780	861	941
POSEY	416	446	535	619	690	761	833
PULASKI	403	431	518	598	668	736	805
PUTNAM	403	431	518	598	668	736	805
RANDOLPH	403	431	518	598	668	736	805
RIPLEY	403	431	518	598	668	736	805
RUSH	403	431	518	598	668	736	805
ST. JOSEPH	449	481	578	667	744	821	898
SCOTT	421	451	541	625	698	769	841
SHELBY	464	497	596	689	769	848	928
SPENCER	403	431	518	598	668	736	805
STARKE	403	431	518	598	668	736	805
STEUBEN	403	431	518	598	668	736	805
SULLIVAN	403	431	518	598	668	736	805
SWITZERLAND	403	431	518	598	668	736	805
TIPPECANOE	479	513	615	711	794	875	958
TIPTON	448	479	575	664	741	818	894
UNION	403	431	518	598	668	736	805
VANDERBURG	416	446	535	619	690	761	833
VERMILLION	403	431	518	598	668	736	805
VIGO	403	431	518	598	668	736	805
WABASH	403	431	518	598	668	736	805
WARREN	403	431	518	598	668	736	805
WARRICK	416	446	535	619	690	761	833
WASHINGTON	403	431	518	598	668	736	805
WAYNE	403	431	518	598	668	736	805
WELLS	428	458	549	634	708	781	854
WHITE	403	431	518	598	668	736	805
WHITLEY	428	458	549	634	708	781	854

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
60% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
ADAMS	513	549	659	761	849	937	1025
ALLEN	513	549	659	761	849	937	1025
BARTHOLOMEW	522	560	671	776	866	954	1044
BENTON	483	518	621	718	801	883	966
BLACKFORD	483	518	621	718	801	883	966
BOONE	557	596	716	827	923	1018	1113
BROWN	495	530	636	735	819	905	989
CARROLL	483	518	621	718	801	883	966
CASS	483	518	621	718	801	883	966
CLARK	506	542	650	750	837	923	1010
CLAY	483	518	621	718	801	883	966
CLINTON	575	616	738	854	953	1050	1149
CRAWFORD	483	518	621	718	801	883	966
DAVIESS	483	518	621	718	801	883	966
DEARBORN	548	587	705	815	909	1002	1097
DECATUR	483	518	621	718	801	883	966
DEKALB	513	549	659	761	849	937	1025
DELAWARE	483	518	621	718	801	883	966
DUBOIS	483	518	621	718	801	883	966
ELKHART	545	583	699	808	902	995	1088
FAYETTE	483	518	621	718	801	883	966
FLOYD	506	542	650	750	837	923	1010
FOUNTAIN	483	518	621	718	801	883	966
FRANKLIN	483	518	621	718	801	883	966
FULTON	483	518	621	718	801	883	966
GIBSON	483	518	621	718	801	883	966
GRANT	483	518	621	718	801	883	966
GREENE	483	518	621	718	801	883	966
HAMILTON	557	596	716	827	923	1018	1113
HANCOCK	557	596	716	827	923	1018	1113
HARRISON	506	542	650	750	837	923	1010
HENDRICKS	557	596	716	827	923	1018	1113
HENRY	483	518	621	718	801	883	966
HOWARD	537	575	690	797	890	982	1073
HUNTINGTON	513	549	659	761	849	937	1025
JACKSON	483	518	621	718	801	883	966
JASPER	483	518	621	718	801	883	966
JAY	483	518	621	718	801	883	966
JEFFERSON	483	518	621	718	801	883	966
JENNINGS	483	518	621	718	801	883	966
JOHNSON	557	596	716	827	923	1018	1113
KNOX	483	518	621	718	801	883	966
KOSCIUSKO	483	518	621	718	801	883	966
LAGRANGE	483	518	621	718	801	883	966
LAKE	566	605	726	839	936	1033	1130
LAPORTE	483	518	621	718	801	883	966
LAWRENCE	483	518	621	718	801	883	966
MADISON	557	596	716	827	923	1018	1113
MARION	557	596	716	827	923	1018	1113

2000
LOW-INCOME HOUSING TAX CREDIT PROGRAM
60% RENT SCHEDULE

COUNTY	EFFICIENCY	1 BEDROOM	2 BEDROOM	3 BEDROOM	4 BEDROOM	5 BEDROOM	6 BEDROOM
MARSHALL	483	518	621	718	801	883	966
MARTIN	483	518	621	718	801	883	966
MIAMI	483	518	621	718	801	883	966
MONROE	521	558	669	774	863	953	1041
MONTGOMERY	483	518	621	718	801	883	966
MORGAN	557	596	716	827	923	1018	1113
NEWTON	483	518	621	718	801	883	966
NOBLE	483	518	621	718	801	883	966
OHIO	483	518	621	718	801	883	966
ORANGE	483	518	621	718	801	883	966
OWEN	483	518	621	718	801	883	966
PARKE	483	518	621	718	801	883	966
PERRY	483	518	621	718	801	883	966
PIKE	483	518	621	718	801	883	966
PORTER	566	605	726	839	936	1033	1130
POSEY	500	536	642	743	828	914	999
PULASKI	483	518	621	718	801	883	966
PUTNAM	483	518	621	718	801	883	966
RANDOLPH	483	518	621	718	801	883	966
RIPLEY	483	518	621	718	801	883	966
RUSH	483	518	621	718	801	883	966
ST. JOSEPH	539	577	693	800	893	985	1077
SCOTT	506	542	650	750	837	923	1010
SHELBY	557	596	716	827	923	1018	1113
SPENCER	483	518	621	718	801	883	966
STARKE	483	518	621	718	801	883	966
STEUBEN	483	518	621	718	801	883	966
SULLIVAN	483	518	621	718	801	883	966
SWITZERLAND	483	518	621	718	801	883	966
TIPPECANOE	575	616	738	854	953	1050	1149
TIPTON	537	575	690	797	890	982	1073
UNION	483	518	621	718	801	883	966
VANDERBURG	500	536	642	743	828	914	999
VERMILLION	483	518	621	718	801	883	966
VIGO	483	518	621	718	801	883	966
WABASH	483	518	621	718	801	883	966
WARREN	483	518	621	718	801	883	966
WARRICK	500	536	642	743	828	914	999
WASHINGTON	483	518	621	718	801	883	966
WAYNE	483	518	621	718	801	883	966
WELLS	513	549	659	761	849	937	1025
WHITE	483	518	621	718	801	883	966
WHITLEY	513	549	659	761	849	937	1025

Appendix G

1. Owner Certification Instructions
2. Owner Certification Checklist
3. Development and Building Information Form
4. Development Compliance Report
5. Utilities Information Form
6. Affirmative Fair Housing Marketing Plan
7. Property Directional Form
8. Authorized Signatory Form

Indiana Housing Finance Authority

Rental Housing Tax Credit Development Compliance Certification Instructions

The Rental Housing Tax Credit (RHTC) Development Compliance Certification must be submitted annually to IHFA. The Certification must be submitted to IHFA on or before January 31 of each year and must report for the entire preceding twelve (12) month period. Therefore, the owner must report all tenants living in the Tax Credit property from January 1 to December 31.

IHFA has provided all forms necessary for the owner to complete the Annual Certification of Compliance. Failure to supply legible and complete Annual Owner Certifications is considered by Internal Revenue Service (IRS) regulation to be noncompliance. Below is a listing of all documents that must be submitted as the Owner Certification along with detailed instructions for their completion.

Owner Certification Checklist

This checklist is a tool that should be used by the owner when completing the Owner Certification. Items one (1) through five (5) must be submitted to IHFA every year of the Compliance Period of a Tax Credit property. Items six (6) through ten (10) must be submitted with the first Owner Certification submitted to IHFA, or if the items have never been submitted, then the outstanding items should be submitted as soon as possible.

Owner Certification of Compliance

The Owner Certification of Compliance document is four pages and has eighteen (xviii) items which the owner must certify to. Some of the items require the owner to provide information that is unique to his/her development.

(i) The owner must give the Building Identification Number (BIN), the date the individual building was first placed in service, and the first year credits were claimed for each individual building in the development.

(ii) The owner must mark which minimum set-aside the property meets. The 20/50 test under Section 42 of the Code means that 20% or more of the residential units in the development are both rent-restricted and occupied by individuals whose income is 50% or less of area median gross income. The 40/60 test under Section 42 of the Code means that 40% or more of the residential units in the development are both rent-restricted and occupied by individuals whose income is 60% or less of area median gross income. Finally, the 15/40 test under Section 42 of the Code means that 15% or more of the tax credit units in the development are both rent restricted and occupied by individuals whose income is 40% or less of area median gross income.

This selection must be the same as the minimum set-aside election the owner selected and reported on IRS Form 8609.

(iii) The owner is to report the applicable fraction of the property as defined by the code. If a change in applicable fraction has taken place the owner must attach a description of that change to the Owner Certification of Compliance.

In addition, the owner must report the total number of units in the development (both low-income units and market units). Furthermore the owner must report the number of qualified low-income units as defined by the Code. Please note that the total qualified low-income units is the number of qualified tax credit units in the property only. The owner should not include units that are low-income as defined by some other program but do not have tax credits associated with them.

The owner must answer the three questions provided in the last part of this section. Each question must have a box marked. If the question is not applicable to the particular development/owner, then the owner must mark the Not Applicable box.

(iv) Please read and understand this section of the certification. The language in this section may not be changed.

(v) Please read and understand this section of the certification. The language in this section may not be changed.

(vi) Please read and understand this section of the certification. The language in this section may not be changed.

(vii) Please read and understand this section of the certification. The language in this section may not be changed.

(viii) The owner must provide information regarding any HOME funds allocated to the development. The owner must place the amount of HOME funds received for the development in the appropriate space provided. The owner must distinguish between HOME funds received from the Indiana Housing Finance Authority (IHFA) and other HOME funds. In addition, the owner must give the total number of HOME assisted units in the development and the affordability period of the HOME assisted units.

(ix) Please read and understand this section of the certification. The language in this section may not be changed.

(x) Please read and understand this section of the certification. The language in this section may not be changed.

(xi) The Owner must mark the box which applies. The language in this section may not be changed.

(xii) Please read and understand this section of the certification. The language in this section may not be changed.

(xiii) Owner must mark the box which applies. If any units in the Development are vacant for longer than 30 days, documentation detailing which units were vacant and marketing efforts, preferably copies of newspaper ads, brochures, etc., must be attached to the certification. The language in this section may not be changed.

(xiv) Owner must mark the box which applies. If a tenant's income increases to 140% of the applicable income limit for that unit, documentation detailing which unit the tenant resides and the next available unit of comparable or smaller size must be attached to the certification. The language in this section may not be changed.

(xv) Please read and understand this section of the certification. The language in this section may not be changed.

(xvi) Please read and understand this section of the certification. The language in this section may not be changed.

(xvii) Owner must provide the county in which the Declaration of Extended Low-Income Housing Commitment was recorded. The language in this section may not be changed.

(xviii) Please read and understand this section of the certification. The language in this section may not be changed.

Finally, the owner or Authorized Signatory for the owner entity must sign the certification and also have his/her signature notarized.

Rental Housing Tax Credit Program Development and Building Information

A Rental Housing Tax Credit Program Development and Building Information Form must be submitted to IHFA every year. This form allows IHFA to track any changes in owner entity and management entity address and phone number. However, please note that IHFA must be made aware immediately of any changes in owner entity or management entity.

Please complete the Rental Housing Tax Credit Program Development and Building Information Form and submit it to IHFA.

Development Compliance Report

A separate Rental Housing Tax Credit Development Compliance Report must be completed for each individual building in Development. This report must provide a summary of all units and all tenants located in a specific building for the preceding year (January 1 – December 31) . This report must be fully completed in the format provided by IHFA and should provide all information related to each individual unit and tenant within a specific building for the entire year. **The owner may elect to re-create this form on his/her computer or use software that is conducive to such reporting. However, all information requested on this form must appear on the report and be submitted in the same format as IHFA has provided for the owner. All tenants residing in the building from January 1 through December 31 (365 days) must be included on this report.**

Please note that all information reported on this form must correspond to the owner's Final Application and Declaration of Extended Low-Income Housing Commitment. Below are instructions for completing all of the information needed on the Development Compliance Report:

1) **Date of Report:**	The date the RHTC Development Compliance Report is completed.
2) **Building Identification Number (BIN):**	Identify the Building Identification Number which was assigned to the specific building. Refer to IRS Form 8609, which was issued for the building.
3) **Development Name:**	The name used by the Development.
4) **Building Address:**	The address of the specific building identified by the BIN.
5) **Tax Credit Units:**	Provide a unit breakdown of the Low-Income Tax Credit units within the specific building.
6) **Market Rate Units:**	Provide a unit breakdown of the market rate units within the specific building.
7) **Special Needs Housing Set-Aside:**	According to the Final Application and/or the Declaration of Extended Low-Income Housing Commitment submitted to IHFA by the owner provide a unit breakdown of units set aside for special needs tenants within this building (BIN).

8) **# of Management Units/Model Units:**

If the owner has specified in the Final Application that a unit will be used as a Manager's or Model Unit, then this portion of the report must be completed. **Please note that the Manager's or Model Unit must be included in the Final Application in order for the property to utilize a unit as a Manager's or Model Unit.**

The owner must mark on the report how the Manager's or Model Unit is being counted in the applicable fraction. See IHFA's RHTC Compliance Manual for a specific discussion on how a Manager's Unit may be counted in the applicable fraction of a property.

9) a) **Apartment #:**

Identify all units within the building by apartment number or address digits if necessary. **Where multiple events occur for a single unit within a year, the events should be entered separately in chronological order.**

b) **How many Bedrooms are in this unit?:**

Indicate the number of bedrooms in the unit.

c) **Square Footage:**

Indicate the total square footage of the unit.

d) **Tenant Name:**

Identify the name of the tenant who occupied or is occupying the unit during the year. Last name only is adequate.

e) **Date of Event:**

Enter the date of the move-in, re-certification, re-certification/transfer, or move-out. **Please note that this report must include all tenants residing in the units from January 1 – December 31.**

f) **Unit Type:**

Indicate the unit type:

30% = Unit is set aside for a household with income of 30% of area median income or less.

40% = Unit is set aside for a household with income of 40% of area median income or less.

50% = Unit is set aside for a household with income of 50% of area median income or less.

60% = Unit is set aside for a household with income of 60% of area median income or less.

M = Market Rate Unit. No income or rent limitations required.

g) **# of Persons residing in Unit:** Indicate the total number of household members in the unit.

h) **Total Annual Household Income:** Enter the total Annual Gross Income of the household.

i) **Rent Paid by Tenant:** Enter the actual dollar amount the tenant pays out-of-pocket monthly.

j) **Amount of Rental Assistance:** Actual dollar amount of rental assistance. If no rental assistance is provided for this unit, leave this space blank.

k) **Type of Rental Assistance:** Indicate the type of rental assistance if applicable using the following codes:
C8 = Section 8 Certificate
P8 = Section 8 Project Based Assistance
V8 = Section 8 Voucher
RA = RHCDS (FmHA Rental Assistance)
OA = Other Assistance

If no rental assistance is provided for this unit, leave this space blank.

l) **Utility Allowance:** Indicate the actual dollar amount of the utility allowance being used for the unit. See RHTC Utilities Form. Also, documentation supporting the utility allowance amounts listed must be submitted with the owner certification.

m) **Full-time Student Household Yes/No:** By placing either "yes" or "no" in the space provided, indicate if all household members are or are not full-time students as defined by the educational institution. **NOTE:** Unless otherwise documented, IHFA will assume that all children 6 years of age through 16 years of age are full-time students as required by law.

n) **Student Code:**

If all household members are full-time students, indicate which exemption under Section 42 qualifies the household to reside in the unit using the following codes.

J = Participates in a job training program with assistance
S = Receives Social Security benefits under Title IV
M = Married & files a joint federal income tax Return
P = Single parent with minor children, none of whom are claimed on another tax return

If the household is not a Full-time Student Household, leave this space blank.

o) **Is this unit set-aside for Special Needs Yes/No:**

By placing either "yes" or "no" in the space provided, indicate if the unit is or is not being used as a set-aside unit for a Special Needs population. The owner of the property will have indicated how many units are set-aside for the special needs population in the Final Application for Tax Credits for the development submitted to IHFA.

p) **Special Needs Code:**

For Developments with Special Needs set-asides only! Indicate the type of special need for the tenant using the following codes:
D = Persons with Disabilities
E = Household with at least one person 55 or older
H = Homeless individuals or homeless Families
If the unit is not set-aside for a special needs population, leave this space blank.

q) **Race of Household:**

Indicate the ethnic background of the tenant using the following codes:
AN = American Indian of Alaskan Native
A = Asian or Pacific Islander
W = White, not of Hispanic origin
H = Hispanic
B = Black, not of Hispanic origin
O = Other Nationality or more than one ethnic background in household

r) **Female Headed Household Yes/No:** Indicate if the unit is occupied by a female head of household.

s) **Type of Event:** Indicate the type of event being reported by using the following codes:
MI = Tenant initially moved into building
MO = Tenant moved out of unit
R = Tenant's income and RHTC qualifications have been re-certified. This event may occur more than one time per year. The owner should report all RHTC re-certifications that occurred during the year.
RT = Tenant's income and RHTC qualifications have been re-certified due to a transfer to another unit within the building. When a transfer within the same building occurs, the MO code should be used with the unit the tenant moves out of and the RT code should be used with the unit the tenant transfers to.

Rental Housing Tax Credit Utilities Form

The Rental Housing Tax Credit Utilities Form must be submitted the first year with the Owner Certification of Compliance. This form provides information on Owner and tenant paid utilities. The Owner must mark the utilities that are offered at the Development and also whether it is the owner's or tenant's responsibility to pay the offered utilities.

For those utilities that are paid by the tenant, a utility allowance must be used by the Owner. The utility allowance is included in Tax Credit rent and will be added to the tenant's out-of-pocket rent when determining total rent paid by the tenant. In addition, the Owner must use the utility allowance that is applicable to the Development. Please read this form carefully and use the applicable utility allowance.

IHFA will not provide utility allowances for Owners. It is the responsibility of the Owner to obtain the correct utility allowance from the appropriate agency.

Also, if any information on this form has changed at all during the Compliance Period of the Development, the owner must submit a new form with the new information immediately.

Property Directional Form

This form must be completed and submitted with the first Owner Certification of Compliance.

Authorized Signatory Form

Only owners, partners, or members of the partnership of Low-Income Housing Tax Credit (LIHTC) development may sign documentation submitted to IHFA regarding specific LIHTC developments. This documentation may include Final Application, IRS Form 8609, Owner Certifications, etc.

The Authorized Signatory Form is for IHFA use only and will be used to verify signatures on documentation submitted to IHFA.

If someone other than the owner, partner, or member of the partnership will be signing the documentation, the documentation verifying Power of Attorney or Authorization of Representation must be submitted with the Form.

Indiana Housing Finance Authority
Rental Housing Tax Credit Program

Owner Certification of Compliance

Certification Year _____

The undersigned, having been allocated certain Rental Housing Tax Credits pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (the "Code") and having executed a "Declaration of Extended Low-Income Housing Commitment" pursuant to the allocation with the Indiana Housing Finance Authority, the housing credit agency for the State of Indiana (the "Authority") for the purpose of purchasing, constructing and/or improving a certain low-income housing Development (the "Development"), and pursuant to the monitoring requirements of the Authority and the requirements of the Code and all regulations promulgated thereunder, does hereby certify as follows:

(i) The Development consists of the following

Building Identification Number (BIN)	Date First Placed in Service	First Year Credits were Claimed

(attach additional BINs to certification)

(ii) The Development meets the requirements of (mark appropriate box):

- ❑ The 20/50 test under Section 42 of the Code; or
- ❑ The 40/60 test under Section 42 of the Code; or
- ❑ The 15/40 test under Section 42 of the Code, for "deep rent skewed"

(iii) There was no change in the applicable fraction as defined in the Code of any building in the Development; or there was a change, in the applicable fraction, and a description of that change is attached to this certification.

Total Units in Development:	
Total Qualified Low-Income Units:	

1. Did the Development receive a tax credit allocation prior to 1990?	❑ Yes ❑ No
2. If yes to question 1, the owner has elected to base tax credit rents on:	❑ Bedroom size ❑ Actual Number of Occupants ❑ Not Applicable
3. If yes to question 1, was a letter sent to the IRS on or before 2/7/94 to determine maximum permissible rents?	❑ Yes ❑ No ❑ Not Applicable

(iv) The undersigned has received an annual income certification form for each low-income tenant in the Development and sufficient documentation to support that certification;

Or

In the case of a tenant receiving Section 8 housing assistance payments, a statement from the applicable public housing authority to the Development owner declaring that the tenant's income does not exceed the applicable income limits under the Code have been received.

(v) If a waiver of the requirement for annual re-certification has been received from the Internal Revenue Service, such waiver has not been revoked and remains valid. A true copy is attached to this certification.

(vi) Each Low-Income Unit in the Development was restricted as provided under the Code.

(vii) The Development is in continuing compliance with all promises, covenants, set-asides and agreed upon restriction as set forth in the application for Credits for the Development.

(viii) The Development has benefited from:

$_____ of IHFA HOME funds; or

$_____of other HOME funds. Source of HOME funds: _____

_____number of units in the Development received the benefit of HOME funds.
(total # of HOME assisted units)

All of these units have been, are being, and will be occupied and managed in accordance with all applicable HOME requirements until _____.
(date HOME affordability requirement expires)

(ix) All units in the Development are for use by the general public and are used on a non-transient basis (except for units located in a building whose primary purpose is transitional housing for homeless as allowed for in the Code).

Additionally, please mark the appropriate certification:

- ❑ No finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred for this development. A finding of discrimination includes an adverse final decision by the Secretary of Housing and Urban Development (HUD), 24 CFR 180.680, and adverse final decision by a substantially equivalent state or local Fair Housing agency, 42 U.S.C. 3616a(a)(1), or an adverse judgement from a Federal court.

- ❑ A finding of discrimination under the Fair Housing Act, 42 U.S.C. 3601-3619, has occurred & the owner has **attached documentation of the findings to this certification.**

(x) Please mark the appropriate certification:

- ❑ All units in the Development are suitable for occupancy, taking into account all federal, state, and local health, safety, and building codes (or other habitability standards), and the state or local unit responsible for making building code inspections did not issue a report of a violation for any building or low-income unit in the development

- ❑ The state or local unit responsible for making building code inspections issued a report of a violation for any building or low-income unit in the development during the certification year. **Documentation of the violations is attached to this certification.**

(xi) Please mark the appropriate certification:

- ❑ There has been no change in the eligible basis of any building in the Development (as defined in the Code); or

- ❑ There has been a change in the eligible basis of the building in the Development (as defined in the Code). **Documentation setting forth the nature and amount of such a change (i.e. a common area has become commercial space, or a fee is now charged for a tenant facility formerly provided without charge) is attached to this certification.**

(xii) All tenant facilities included in the eligible basis of the Development under the Code, such as swimming pools, recreational facilities, and parking areas, are provided on a comparable basis without charge to all tenants of the Development.

(xiii) Please mark the appropriate certification:

- ❑ No Low-Income Units in the Building became vacant during the applicable year; or

- ❑ One or more Low-Income Units in the building became vacant during the applicable year and reasonable efforts were or are being made to rent such units or the next available unit or units of comparable size in the building to tenants having a qualifying income. **Documentation detailing which units were vacant during the applicable year and a description of the efforts to rent such units to tenants with qualifying incomes must be attached to this certification.**

(xiv) Please mark the appropriate certification:

- ❑ No tenant of any Low-Income Units in the Development experienced an increase in income above the limit allowed in Section 42(g)(2)(D)(ii) of the Code; or

- ❑ Income of tenants of a Low-Income Unit in the project increased above the limit allowed in Section 42(g)(2)(D)(ii) of the Code, and the next available unit of comparable or smaller size in the project was or will be rented to tenants having a qualifying income. **Documentation detailing tenants who have experienced such an increase in income and the unit or units which have been or will be rented to tenants having qualifying income and the efforts made to rent such a unit or units must be attached to this certification.**

(xv) The Development has at least one operating smoke detector on each level of the rental dwelling unit.

(xvi) There have been not changes in entity ownership or if there have been, IHFA has been provided with all details and all necessary documentation.
(xvii) The Development is in continuing compliance with the Declaration of Extended Low-Income Housing Commitment applicable to the Development and filed in the office of the Recorder of _____ County, Indiana; and

(xviii) The Development is otherwise in compliance with the Code, including any Treasury Regulations pursuant thereto, and applicable laws, rules, regulations, and ordinances.

Each person signing on behalf of the undersigned entity certifies that (a) he/she, personally, is fully empowered and duly authorized by any and all necessary action or consent required under any applicable articles of incorporation, bylaws, partnership agreement, articles of organization, operating agreement or other agreement applicable to the owner to execute and deliver this certification for an on behalf of the undersigned; (b) the undersigned entity has full capacity, power and authority to enter into an execute this certification for and on behalf of the owner; (c) this certification has been duly authorized, executed and delivered; and (d) this certification and any attachments, including the Development and Building Information Form and Development Compliance Report (may be submitted through IHFA automated compliance reporting system) are true, accurate, complete, and made under penalty of perjury.

The undersigned has executed this certification this _____ day of _____, 200___.

_____
(Printed/typed name of Owner)

By:_____

Title:_____

Attest:
_____

STATE OF INDIANA)
)SS:
COUNTY OF_____)

Before me, a Notary Public in an for said County and State, appeared _____the _____of _____, and who being duly sworn acknowledged the execution of the foregoing Certification of Compliance as his/her free and voluntary act and deed.

Witness my hand and Notarial Seal the _____day of _____ 200____.

My Commission expires:

_____
Notary Public

_____

_____
Printed Name

My County of Residence

Indiana Housing Finance Authority

Owner Certification Checklist

Year of Owner Certification _____

Property Name _____

Building Identification Number(s) (BIN): _____ _____ _____

_____ _____ _____
(Please list additional BINs on a separate piece of paper and attach)

_____ 1. Completed Certification of Compliance – signed by an authorized signatory and notarized

_____ 2. Completed Development and Building Information Form

_____ 3. Completed Development Compliance Report

Submitted through IHFA Compliance Reporting Website
Submitted on paper and attached to Owner Certification of Compliance

_____ 4. Completed Utilities Information Form

_____ 5. Supporting Documentation for Utility Allowance

_____ 6. Annual Monitoring Fee

If this is the initial year of certification, the following information must also be submit to IHFA:

_____ 7. Affirmative Fair Housing Marketing Plan

_____ 8. A Copy of Completed and Signed IRS Form 8609 for each Building

_____ 9. Property Directional Form

_____ 10. Authorized Signatory Form

Indiana Housing Finance Authority

Rental Housing Tax Credit Program Development and Building Information

Year of Certification 20___

Date _____

Development Information:

Building Identification Number(s)

_____ _____ _____ _____ _____
_____ _____ _____ _____ _____
_____ _____ _____ _____ _____
_____ _____ _____ _____ _____
_____ _____ _____ _____ _____

* List additional BINs on a separate piece of paper and attach

Development Name:_____

Development Address:_____

Development City/State/Zip:_____

Development Telephone Number:_____

Development County:_____

Owner Information:

Development Ownership Entity:_____

Contact Person:_____
(must be owner, partner, or member of the partnership)

Owner Address:_____

Owner City/State/Zip:_____

Owner Telephone Number:_____

Building Owner's Taxpayer Identification Number (TIN): _____
(must correspond to TIN on IRS Form 8609)

Management Information:

Management Company:_____

Management Contact Person:_____

Management Address:_____

Management City/State/Zip:_____

Management Telephone Number: _____

Credit Information:

First year Credit was Claimed:_____ First year's reported eligible basis:_____

First year's qualified basis:_____

Minimum set-aside reported to IRS on Form 8609: ___20/50 ___40/60 ___15/40

Date Development met minimum set-aside reported to IRS _____

Building and Unit Information:

Number of Buildings in Development:_____ Total RHTC Buildings: _____

Total Section 8 Buildings:_____ Total Rural Development Buildings: _____

Total Number of Handicapped Accessible Units in Development:_____

Total Number of Units considered for Manager's/Model/Office:_____

Is the Manager's/Model/Office unit considered to be common area? ____YES ____NO
Tax Credit qualified unit? ____YES ____NO

Fair Housing:

If there are five or more units total in all buildings of the Development, then an Affirmative Fair Housing Marketing Plan, HUD Form 935.2, must be submitted and approved by HUD. A copy of the submitted and approved Plan must be forwarded to IHFA.

Does the Project have five (5) or more total units? ____Yes ____No

If yes, has HUD Form 935.2 been approved by HUD? ____Yes ____No ____N/A
(If no, a completed Form 935.2 must be submitted to IHFA with a written statement explaining why the Form has not been approved and the approximate date approval.)
If yes, has a copy the approved Form 935.2 been submitted to IHFA? ___Yes ___ No ___ N/A

Indiana Housing Finance Authority

Rental Housing Tax Credit Utilities Form

Project Name: _____

Building Identification Number(s) (BIN):_____

1. Utilities

	Gas	Electric	Oil	L.P.	Other	Owner Paid	Tenant Paid
Unit Heat							
Water Heating							
Cooking							
Unit Electric							
Water Service							
Sewer							
Trash Removal							

*Please mark the appropriate boxes

1. Utility Allowance Documentation

The maximum allowable rent calculations include costs to be paid by the tenant for utilities including: heat, lights, water, sewer, oil, gas, or trash removal where applicable. Utilities do not include telephone or cable television.

Utility allowances should be calculated as follows:

1. RHCDS (FmHA) regulated buildings must use RHCDS approved utility allowances.
2. HUD regulated buildings must use HUD approved utility allowances.
3. HUD and RHCD buildings must use RHCD approved utility allowances.
4. Units with Section 8 subsidy through certificates or vouchers must use the PHA Section 8 existing utility allowances for those tenants. Non-Section 8 units must follow number 5 below.
5. All other buildings must use the PHA local utility allowances or local utility company data if it is requested. If local utility company data is obtained, the Owner must use the information, provided it is not an RHCD (FmHA) or HUD regulated building.

Utility allowances need to be updated when area median incomes are revised since they are included in the maximum allowable rent calculations. Any changes in the utility allowance impacts the net chargeable rent to the tenant.

When a new utility allowance is used, rents must be recalculated within ninety (90) days.

NOTE: This form must be submitted with the first year Owner Certification of Compliance. If information on this form changes during the compliance period of the project, then the owner must submit a revised form. However, documentation supporting the utility allowance used to calculate rent must be submitted every year with the Owner Certification of Compliance to IHFA.

Affirmative Fair Housing Marketing Plan

U.S. Department of Housing and Urban Development
Office of Fair Housing and Equal Opportunity

OMB Approval No. 2529-0013
(exp. 09/30/2003)

1a. Applicant's Name, Address (including city, state & zip code) & Phone Number

1b. Project's Name, Location (including city, State and zip code)

1c. Project/Application Number

1d. Number of Units

1e. Price or Rental Range
From $
To $

1f. For Multifamily Housing Only
☐ Elderly ☐ Non-Elderly

1g. Approximate Starting Dates (mm/dd/yyyy)
Advertising
Occupancy

1h. Housing Market Area

1i. Census Tract

1j. Managing/Sales Agent's Name & Address (including city, State and zip code)

2. **Type of Affirmative Marketing Plan** (mark only one)
☐ Project Plan
☐ Minority Area
☐ White (non-minority) Area
☐ Mixed Area (with _____ % minority residents)

3. **Direction of Marketing Activity** (Indicate which group(s) in the housing market area are least likely to apply for the housing because of its location and other factors without special outreach efforts)
☐ White (non-Hispanic) ☐ Hispanic ☐ American Indian or Alaskan Native
☐ Black (non-Hispanic) ☐ Asian or Pacific Islander ☐ Persons with Disabilities

4a. **Marketing Program: Commercial Media** (Check the type of media to be used to advertise the availability of this housing)
☐ Newspapers/Publications ☐ Radio ☐ TV ☐ Billboards ☐ Other (specify)

Name of Newspaper, Radio or TV Station	Racial/Ethnic Identification of Readers/Audience	Size/Duration of Advertising

4b. **Marketing Program: Brochures, Signs, and HUD's Fair Housing Poster**
(1) Will brochures, letters, or handouts be used to advertise? ☐ Yes ☐ No If "Yes", attach a copy or submit when available.
(2) For project site sign, indicate sign size _____ x _____; Logotype size _____ x _____. Attach a photograph of project sign or submit when available.
(3) HUD's Fair Housing Poster must be conspicuously displayed wherever sales/rentals and showings take place. Fair Housing Posters will be displayed in the ☐ Sales/Rental Office ☐ Real Estate Office ☐ Model Unit ☐ Other (specify)

4c. **Community Contacts.** To further inform the group(s) least likely to apply about the availability of the housing, the applicant agrees to establish and maintain contact with the groups/organizations listed below that are located in the housing market area or SMSA. If more space is needed, attach an additional sheet. Notify HUD-FHEO of any changes in this list. Attach a copy of correspondence to be mailed to these groups/organizations. (Provide all requested information.)

Name of Group/Organization	Racial/Ethnic Identification	Approximate Date (mm/dd/yyyy)	Person Contacted or to be Contacted

Address & Phone Number	Method of Contact	Indicate the specific function the Group/Organization will undertake in implementing the marketing program

5. **Future Marketing Activities** (Rental Units Only) Mark the box(s) that best describe marketing activities to fill vacancies as they occur after the project has been initially occupied.
☐ Newspapers/Publications ☐ Radio ☐ TV ☐ Brochures/Leaflets/Handouts
☐ Site Signs ☐ Community Contacts ☐ Other(specify)

6. **Experience and Staff Instructions** (See instructions)
6a. Staff has experience. ☐ Yes ☐ No
6b. On separate sheets, indicate training to be provided to staff on Federal, State and local fair housing laws and regulations, as well as this AFHM Plan. Attach a copy of the instructions to staff regarding fair housing.

7. **Additional Considerations** Attach additional sheets as needed.

8. **Changes and Revisions** By signing this form, the applicant agrees, after appropriate consultation with HUD, to change any part of the plan covering a multifamily project to ensure continued compliance with Section 200.620 of HUD's Affirmative Fair Housing Marketing Regulations.

Signature of person submitting this Plan & Date of Submission (mm/dd/yyyy)

Name (type or print)

Title & Name of Company

For HUD-Office of Housing Use Only

Approval By	Disapproval By
Signature & Date (mm/dd/yyyy)	Signature & Date (mm/dd/yyyy)
Name (type or print)	Name (type or print)
Title	Title

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

The Affirmative Fair Housing Marketing Plan (AFHM) is needed to ensure that Federal agencies are taking necessary steps to eliminate discriminatory practices involving Federally insured and assisted housing. No application for any housing project or subdivision insured or subsidized under the Department's housing programs can be funded without an approved AFHM Plan. The responses are required to obtain or retain a benefit under the Fair Housing Act, Section 808(e)(5) & (6) and 24 CFR Part 200, Subpart M. The form contains no questions of a confidential nature.

Instructions

Send the Completed form to: Your Local HUD Office,
Attention: Director, Office of Housing

The Affirmative Fair Housing Marketing Regulations require that each applicant subject to these regulations carry out an affirmative program to attract prospective buyers or tenants of all minority and non- minority groups in the housing market area regardless of race, color, religion, sex, national origin, disability, or familial status. These groups include Whites (Non-Hispanic), members of minority groups, i.e.., Blacks (Non-Hispanic), American Indians/Alaskan Natives, Hispanics, Asian/Pacific Islanders, persons with disabilities, or families with children in the Standard Metropolitan Statistical Areas (SMSA) or housing market area who may be subject to housing discrimination on the basis of race, color, religion, sex, national origin, disability, or familial status. The applicant shall describe on this form the activities it proposes to carry out during advance marketing, where applicable, and the initial sales rent-up period. The affirmative program also should ensure that any group(s) of persons normally **not** likely to apply for the housing without special outreach efforts (because of existing neighborhood racial or ethnic patterns, location of housing in the SMSA price or other factors), know about the housing, feel welcome to apply and have the opportunity to buy or rent.

Part 1 - Applicant and Project Identification. The applicant may obtain Census Tract location information, item 1i, from local planning agencies, public libraries and other sources of Census Data. For item 1g, specify approximate starting date of marketing activities to the groups targeted for special outreach and the anticipated date of initial occupancy. Item 1j is to be completed only if the applicant is not to implement the plan on its own.

Part 2 - Type of Affirmative Marketing Plan. Applicants for multifamily projects are to submit a Project Plan which describes the marketing program for the particular project or subdivision. Scattered site builders are to submit individual annual plans based on the racial composition of each type of census tract. For example, if a builder plans to construct units in both minority and non-minority census tracts, separate plans shall be submitted for all of the housing proposed for both types.

Part 3 - Direction of Marketing Activity. Considering factors such as price or rental of housing, the racial/ethnic characteristics of the neighborhood in which housing is (or is to be) located, the population within the housing market area, or the disability or familial status of the eligible population, public transportation routes, etc., indicate which group(s) you believe are least likely to apply without special outreach.

Part 4 - Marketing Program. The applicant shall describe the marketing program to be used to attract all segments of the eligible population, especially those groups designated in the Plan as least likely to apply. The applicant shall state: the type of media to be used, the names of newspapers/call letters of radio or TV stations; the identity of the circulation or audience of the media identified in the Plan, e.g., White (Non-Hispanic), Black (Non-Hispanic), Hispanic, Asian-American/Pacific Islander, American Indian/ Alaskan Native; and the size or duration of newspaper advertising or length and frequency of broadcast advertising. Community contacts include individuals or organizations that are well known in the project area or the locality and that can influence persons within groups considered least likely to apply. Such contacts may include, but need not be limited to: neighborhood, minority and women's organizations, churches, labor unions, employers, public and private agencies, disability advocates, and individuals who are connected with these organizations and/or are well-known in the community.

Part 5 - Future Marketing Activities. Self-Explanatory.

Part 6 - Experience and Staff Instructions.

a. Indicate whether the applicant has previous experience in marketing housing to group(s) identified as least likely to apply for the housing.
b. Describe the instructions and training given to sales/rental staff. This guidance to staff must include information regarding Federal, State and local fair housing laws and this AFHM Plan. Copies of any written materials should be submitted with the Plan, if such materials are available.

Part 7 - Additional Considerations. In this section describe other efforts not mentioned previously which are planned to attract persons in either those groups already identified in the Plan as least likely to apply for the housing or in groups nor previously identified in the Plan. Such efforts may include outreach activities to female-headed households and persons with disabilities.

Part 8 - The applicant's authorized agent signs and dates the AFHM Plan. By signing the Plan, the applicant assumes full responsibility for its implementation. The Department may at any time monitor the implementation of the Plan and request modification in its format or content, where the Department deems necessary.

Notice of Intent to Begin Marketing. No later than 90 days prior to the initiation of sales or rental marketing activities, the applicant with an approved Affirmative Fair Housing Marketing Plan shall submit notice of intent to begin marketing. The notification is required by the Affirmative Fair Housing Marketing Plan Compliance Regulations (24 CFR Part 108.15). It is submitted either orally or in writing to the FHEO Division of the appropriate HUD Office serving the locality in which the proposed housing is located. OMB approval of the Affirmative Fair Housing Plan includes approval of this notification procedure as part of the Plan. The burden hours for such notification are included in the total designated for this Affirmative Fair Housing Marketing Plan form.

Property Directional Form

Please complete one directional form for each property.

Building Identification Number (BIN):_____

Name of Property:_____ Contact Person at Property:_____

Address of Property:_____

City:_____ County:_____ Phone Number of Property:_____

Please provide written directions from Indianapolis to the above property:

_____

_____

_____

_____

_____

_____

_____

Please provide a simple map to the property according to the directions given above:

Any additional directional information can be placed on the back of this form. Thank you for your cooperation.

Indiana Housing Finance Authority

Authorized Signatory Form

Only owners, partners, or members of the partnership of Low Income Housing Tax Credit (LIHTC) projects may sign documentation submitted to IHFA regarding specific LIHTC projects. This documentation may include final application, IRS form 8609, owner re-certifications, etc.

Below is (are) the authorized signatory (signatories) for the Rental Housing Tax Credit development located at _____ in _____, IN.

Building Identification Number (BIN) _____

	Name, Title	Signature
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____

If more lines are needed, please attach a separate sheet with the name, title, and signature of the owner, partner, or member.

This form is for IHFA use only and will be used to verify signatures on documentation submitted to IHFA.

*Note: If someone other than the owner, partner, or member will be signing the above mentioned documentation, then documentation verifying Power of Attorney or Authorization of Representation must be submitted with this form (See Appendix G of RHTC Compliance Manual.