

SECTION I – INTRODUCTION

Part 100 Background of the CTCAC Program

In 1986, Congress enacted the Low-Income Housing Tax Credit Program (LIHTC). This program provides incentives for the investment of private equity capital in the development of affordable rental housing. The LIHTC reduces the federal tax liability of project owners in exchange for the acquisition, rehabilitation, or construction of affordable rental housing units that will remain income and rent restricted over a long period. The amount of tax credit allocated is based on the number of qualified low-income units that meet federal rent and income targeting requirements.

The LIHTC is authorized and governed by Section 42 of the Internal Revenue Code of 1986, as amended (the “Code”). The California Tax Credit Allocation Committee (CTCAC) is the designated “housing credit agency” to allocate and administer tax credits for the entire state.

Each state develops a Qualified Allocation Plan (QAP), which establishes the guidelines and procedures for the acceptance, scoring, and competitive ranking of applications and for the administration of the LIHTC Program. The QAP and California’s Program Regulations are developed to be relevant to state housing needs and consistent with state housing priorities. For more information on the Qualified Allocation Plan and the Program Regulations, see Section III, #370 and #380.

Part 110 Contents and Summary

Section 42(m)(1)(B)(iii) of the Code requires that each state’s Qualified Allocation Plan provide a procedure that the agency will follow in notifying the Internal Revenue Service (IRS) of any noncompliance with the provisions of Section 42 of which it becomes aware. This provision became effective on January 1, 1992.

Final regulations, developed by the IRS and published on September 2, 1992, outline minimum requirements for owner recordkeeping and reporting, for state credit agency monitoring and inspecting, and for reporting to the IRS instances of noncompliance.

On July 30, 2008, Congress passed the Housing and Economic Recovery Act of 2008 (HR 3221) which changed several provisions of the federal LIHTC program. See Section VIII Legislative Changes.

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA was designed as a sweeping economic stimulus bill providing resources to various programs and other efforts to reinvigorate the nation’s economy. The Low Income Housing Tax Credit (LIHTC) program is among those receiving additional resources to stimulate the production of affordable rental housing for low-income families and households. All ARRA funded projects are subject to the same monitoring procedures and requirements outlined in this manual in addition to asset management requirements. Detailed descriptions of ARRA and the available programs funded by it can be found on our website at:

<http://www.treasurer.ca.gov/ctcac/arra.asp>

California's compliance monitoring plan follows the final regulations, as well as the recommendations of the National Council of State Housing Agencies (NCSHA), and is applicable to ALL owners of ALL buildings that have ever claimed the low-income housing tax credit since the inception of the program in 1987. See Section VIII Legislative Changes

Part 120 Compliance Period

Once allocated by the housing credit agency, low-income housing tax credits can be claimed annually over a ten (10) year period beginning either with the year the building is placed in service or the following year, depending on which option is selected by the owner. Projects must, however, remain in compliance for a minimum of fifteen (15) years, with some requirements extending for an additional three years. Additionally, owners who agreed in their applications to have longer compliance periods will be bound for the length of time specified.

Developments with allocations of 1990 credit and after will have entered into a restrictive covenant (Regulatory Agreement/Land Use Restrictive Agreement) with CTCAC at the time of final allocation. These developments must comply with eligibility requirements for an additional 15 years beyond the initial 15 year compliance period (or a total of 30 years), except in certain circumstances.

This restrictive covenant binds the owner and any successors to maintain specified low-income occupancy during the Extended Use Period. The Extended Use Period may end in the event of foreclosure, or if, during or after the 14th year of the tax credit period, the owner requests the credit agency to find a buyer willing to enter into a "qualified contract" to purchase the property and maintain its low-income use for the remainder of the Extended Use Period. However, please note, in California, the option of requesting the credit agency to find a purchaser is not available to owners who agreed to longer compliance periods.

If a LIHTC property goes into foreclosure during the 15 year Federal Compliance Period, a 3 year de-control period goes into effect, wherein the owner cannot raise rents for the tax-credit units to market rate for 3 years.

Many projects, particularly those allocated in 1990 and beyond, elected to extend the number of low-income use restriction years up to 55 years in order to receive additional points in the scoring process. Projects allocated in 1996 and beyond must extend the number of low-income use restriction years to 55 years in order to compete for an allocation. For more information regarding the Extended Use Agreement, the Qualified Allocation Plan, and the Program Regulations, see Section III, #380.

Part 130 Regulations for Various Tax Credit Periods

IRS regulations differ depending on when a project was allocated tax credit. In some cases, the change in regulations brought forth by a technical correction is minor; in others, it is substantial. Management must not only be aware of the differences in regulations but must also clearly

understand which rule governs each particular building and/or project. There are six specific tax credit regulation periods as follows:

1. January 1, 1987 – December 31, 1989

- For projects allocated credit during this period, rent is based on the number of people living in the unit, and was (is) subject to change as household composition changes. Owners of these projects, however, had a one-time opportunity to opt to change the methodology used by sending a letter to the Internal Revenue Service requesting the conversion. Verification of the option chosen must be provided to CTCAC upon request.

2. January 1, 1990 and beyond.

- Rent for all projects allocated after January 1, 1990 is based on the number of bedrooms in a particular unit.
- The compliance period is increased to 30 years.

NOTE: This does not necessarily mean projects placed in service in 1990. It is the tax credit allocation year that is determinative.

3. 1991 and January 1, 1992 – June 30, 1992

- The Farmers Home Administration Overage Rule and an extension on initial compliance (not retroactive) were implemented.

4. July 1, 1992 and August 10, 1993

- Section 8 voucher rule (cannot refuse to lease to Section 8 tenants) – retroactive.
- Two student rule changes were implemented.
- 1987 – 1989 projects can convert rental rates from number of persons to number of bedrooms.

5. 2001

- The IRS issued a Revenue Ruling to include the requirement of physical inspections in addition to file inspections

6. July 30, 2008 – Housing and Economic Recovery Act of 2008 (HR 3221)

(Compliance Related Changes)

- Clarifies the general public use test to explicitly allow Credit developments that establish tenancy restrictions for persons with special needs, tenants who are involved in artistic or literary activities, and persons who are members of a specified group under a Federal or state program or policy that supports housing for such a specified group, effective for buildings placed in service before, during, and after date of enactment.
- Modifies HUD's income limit methodology for calendar years after 2008 to require HUD to increase applicable area median incomes by the amount area median incomes rise, even if the HUD-determined area median incomes would be frozen under HUD's 2007 and 2008 income limit methodology.
- Modifies the Housing Credit student rule to make children who received foster care assistance eligible for Housing Credit apartments, effective for determinations after date of enactment.
- Defines area median income in rural areas as the greater of the area median income and

the national non-metropolitan median income, effective for income determinations made after date of enactment, applicable only to 9 percent Credit developments.

- Eliminates the annual income recertification requirement for 100 percent qualified unit developments, applicable for years ending after the date of enactment.
- Repeals the Housing Credit recapture bond rule, effective for future dispositions and past dispositions if: a) it is reasonably expected the building will continue to be operated as a qualified low-income building; and b) the taxpayer elects to be subject to the new longer statute of limitations.
- Excludes military employees' basic allowance for housing from the definition of income if they are housed in a building located in a county with a military base that had its population grow by 20 percent or more between December 31, 2005 and June 1, 2008, or any county adjacent to such a county. *Please note: this was a temporary provision which expired on 12/31/2011.*

Part 140 Compliance Manual

The CTCAC Compliance Manual is designed to offer guidance on the requirements, restrictions, and policies of the California Tax Credit Allocation Committee and is not designed to be all inclusive or cited as an authority for setting or sustaining a technical position. Policies and procedures may change with little or no notice if Federal, State or Local regulations governing the program change.