

Dear NAHMA Members,

The Internal Revenue Service (IRS) recently issued policy updates that impact LIHTC. Please find them below:

1. IRS Provides Short-Term Extensions to Certain Housing Credit Deadlines Due to COVID-19

NAHMA shares this update, on behalf of tax credit industry coalition partner [ACTION](#) (*click to view entire post):

On April 10, the IRS published [Notice 2020-23](#) providing additional relief for taxpayers affected by the coronavirus pandemic. The notice provides that taxpayers have until July 15, 2020, to perform specified time-sensitive actions due to be performed on or after April 1, 2020, and before July 15, 2020. While the notice does not specifically reference any Housing Credit or Housing Bond deadlines, it applies the July 15 deadline to all time-sensitive actions included in [IRS Revenue Procedure 2018-58](#), which includes numerous deadlines related to these programs.

As a result of this ruling, taxpayers have until July 15, 2020, to perform any of the sensitive actions below if they were originally due to be performed on or after April 1, 2020, and before July 15, 2020.

Housing Credit Deadlines

- 1 The 10 percent test requirement as referenced in Section 42(h)(1)(E) and (F)
- 2 The 24-month period in which the requisite amount of rehabilitation expenditures has to be incurred as required in Section 42(e)(3)(A)(ii)
- 3 The annual owner certification of compliance as required in regulation 1.42-5(c)(1)
- 4 The annual tenant income certification requirement in regulation 1.42-5(c)(1)(iii)
- 5 The requirement to notarize a binding agreement by the fifth day following the end of the month in which the binding agreement was made as referenced in regulation 1.42-8(a)(3)(v)
- 6 The requirement to notarize a binding agreement by the fifth day following the end of the month in which the tax-exempt bonds are issued as referenced in regulation 1.42-8(b)(1)(vii)
- 7 The 10-year rule for claiming credits on an existing building as required in Section 42(d)(2)(D)(i)(IV)
- 8 The minimum set-aside requirement as referenced in Section 42(g)(3)(A)
- 9 The requirement that a low-income housing commitment must be in effect as of the beginning of the year for a building to receive credit as referenced in Section 42(h)(6)(J)

Both Notice 2020-23 and Housing Credit disaster guidance in [IRS Revenue Procedure 2014-49](#) provide extensions for the 10 percent test deadline for Housing Credit allocations. However, Notice 2020-23 applies only to projects that would have needed to meet their 10 percent test between April 1 and July 15, and only allows an extension until July 15, while Revenue Procedure 2014-49 applies to any carryover allocation in effect prior to the beginning of the major disaster declaration incident period, which is January 20, 2020, in all cases, and allows the extension of up to six months from the date of the original 10 percent test deadline. Moreover, Notice 2020-23 does not require implementing action by the Housing Credit allocating agency, while Revenue Procedure 2014-49 does. In addition, allocating agencies have the ability to offer deadline relief on a project-by-project basis or a statewide basis under Revenue Procedure 2014-49.

The other eight Housing Credit time-sensitive actions extended by Notice 2020-23 are not addressed in IRS Revenue Procedure 2014-49.

2. IRS Releases Guidance to Allow Partnerships to Amend 2018 and 2019 Tax Returns and Benefit from Bonus Depreciation Changes in CARES Act

On April 8, the Internal Revenue Service published a notice [Rev. Proc. 2020-23](#) that allows partnerships to amend 2018 and 2019 tax returns, in some circumstances, in order to take advantage of bonus depreciation changes in the (CARES) Act and any other tax attributes to which the partnership is entitled by law. According to [Novogradac](#), “the CARES Act included a technical correction to retroactively allow qualified improvement property to qualify for 100 percent bonus depreciation and make other changes. Owners of low-income housing tax credit (LIHTC) properties can take advantage of the change and amend their 2018 tax return upon receipt of IRS Form 8609. The amended tax return replaces any prior return (including any administrative adjustment request filed by the partnership), if the taxpayer files an amended return for 2018 by Sept. 30. To be eligible to file an amended return for 2018 or 2019 tax return, the partnership had to have filed the original tax return and furnished K-1s before April 8”.

3. May Applicable Rates

Revenue Ruling 2020-09, which provides various prescribed rates for federal income tax purposes, including applicable federal interest rates, adjusted applicable federal interest rates, and adjusted long-term and tax-exempt rates for January 2020.

As provided in the ruling, **Table 4** contains **LIHTC Appropriate Percentages Under Section 42(b)(1) for January 2020**:

- Appropriate percentage for the 70% present value low-income housing credit: **7.28%**
- Appropriate percentage for the 30% present value low-income housing credit: **3.12%**

Note: Under section 42(b)(2), the applicable percentage for non-federally subsidized new buildings placed in service after July 30, 2008, shall not be less than 9%.

To view the attached revenue ruling from the IRS online, please click [here](#).

Thanks,

Michal

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NAHMA is the leading voice for affordable housing management, advocating on behalf of multifamily property managers and owners whose mission is to provide quality affordable housing.