



**CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE**

915 CAPITOL MALL, ROOM 485  
P.O. BOX 942809  
SACRAMENTO, CA 94209-0001  
TELEPHONE: (916) 654-6340  
FAX: (916) 654-6033

William J. Pavão  
*Executive Director*

**MEMBERS:**  
Bill Lockyer, Chair  
*State Treasurer*

Michael C. Genest, Director  
*Department of Finance*

John Chiang  
*State Controller*

May 1, 2008

**POLICY MEMO 08-01**

TO: Housing Credit Property Owners and Managers  
FROM: The California Tax Credit Allocation Committee (CTCAC) Compliance Section  
RE: Continuing Policies and Program Requirements for 2008

Dear Housing Credit Participant:

The purpose of this memo is to notify you of continued policy changes reflecting the 2007 issue of the IRS *Guide for Completing Form 8823*, that State Allocating Agencies began using as guidance beginning in calendar year 2007, and to disclose additional compliance program requirements going forward.

**Guide for Completing Form 8823: Low Income Housing Credit Agencies Report of Noncompliance or Building Disposition**

In January 2007, the IRS released its 8823 guidelines. The guidelines clarified many issues, specifically regarding to full-time student households and transfers between buildings, which required a change in the policy for CTCAC-monitored properties. The following policy changes are in effect:

***I. Low Income Units Occupied by Nonqualified Full-Time Students***

In the past, CTCAC has not considered K-12 as full-time students when determining whether a household was comprised entirely of full-time students. This policy was initiated in the December 15, 2000 Memorandum *Compliance Recommended Practices*.

The 2007 IRS guidelines include K-12 schools in their definition of educational organizations, thereby requiring states to include the K-12 students when determining whether a household is comprised entirely of full-time students.

The IRS 8823 Guidelines read as follows:

*An educational organization, as defined by IRC 170(b)(1)(A)(ii), is one that normally maintains a regular faculty and curriculum, and normally has an enrolled body of pupils or*

*students in attendance at the place where its educational activities are regularly carried on. The term “educational organization” includes elementary schools, junior and senior high schools, colleges, universities, and technical, trade and mechanical schools. It does not include on-the-job training courses.*

In 2007, as CTCAC monitored throughout the state we gave written notice in our findings letters to owners of this policy change and noted that there would be no consequences for any households established under the old CTCAC policy of not considering K-12 full-time students, however, beginning in January of 2008, all new move-in households must meet the criteria of the newly adopted policy. CTCAC will begin noting this issue as a noncompliance issue beginning July 1<sup>st</sup>, 2008. The four IRS exceptions to the full-time student rule remain in effect and are as follows:

1. Receiving assistance under Title IV of the Social Security Act (AFDC, TANF);
2. Enrolled in a job training program receiving assistance under the Work Force Investment Act (WIA), (formerly the Job Training Partnership Act) or under another similar federal, state, or local laws;
3. Single parents with minor children, all of whom are full-students and such parents and children are not dependents of another individual \* **please note on January 2008, there was a change to the IRS code for this exception – children in household can be claimed as dependents on either parent's tax return. CTCAC has created a new self-affidavit form to use in these instances.**
4. All members of household are married and have filed a joint tax return or are entitled to file a joint tax return

Please note that for #3 above, CTCAC will require a complete copy of the most recently filed tax return for the single parent household be on file **or** use of our new Single Parent Full-Time Student Form found on our website at the time of move-in and at all subsequent annual recertification's.

Please note that for #4 above, CTCAC will require a copy of the marriage certificate be in tenant file.

## **II. Transfers to Different Buildings, With-in Same Low-income Project**

The IRS now allows transfers between buildings at tax credit properties without qualifying the household as an original move-in, so long as the household's income does not exceed 140% of their current income limit. The household takes its tax credit status, their lease, income certification including its effective date, to the new unit. The old unit assumes the status of their new unit just prior to the transfer. Extra caution needs to be taken when transferring units in mixed-income properties. Management must keep detailed records of how transfers are being performed to ensure compliance with next available unit rule and square footage requirements.

## **III. Tenant Income Certification Effective Date**

The new policy for tenant income certifications is they can now be dated and signed within 120 days of the effective date of the certification for both the move-in year and all subsequent recertification's. This includes pay-stubs and third party documentation of income and assets.

The IRS Guidelines read as follows:

*The effective date of the tenant's income certification is the date the tenant actually moves into the unit. All adult members of the household should sign the certification. If the certification is more than 120 days old, a new certification must be provided in file.*

Please note: CTCAC will continue to allow mass recertification's as long as they are completed at the same time period each year.

#### **IV. Changes in Family Size**

The 8823 Guide stipulates that any addition of a new member(s) to an existing low-income household must be accompanied by a new income certification including third party verification of income and assets. If the addition of the new household member(s) increases the income of the household over 140% of the income limitation, then the next available unit rule applies.

The 8823 Guide further states that a household may continue to add members as long as at least one member of the original low-income household continues to live in the unit. Once all original household members have moved out of the unit, the remaining tenant(s) must be certified as a new income-qualified household. Keep in mind the full-time student rule when adding new members to an existing household.

#### **V. 2006 Change from HUD regarding: Financial Aid/Scholarships**

Any financial aid assistance, in excess of amounts received for tuition, received under the Higher Education Act of 1965 (20 U.S.C. 1001 et.seq.), from private sources, or from an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall be considered income except for persons over the age of 23 with dependent children.

The financial assistance a student receives while residing with a parent or guardian is excluded from annual income. *CTCAC will require a copy of the parent/guardian 1040 tax return be on file to prove dependent status of the student*

Please note: this rule applies to all tax credit properties and applies whether the student attends school on a part-time or full-time basis.

#### **VI. Compliance Monitor Inspector Contract**

CTCAC has contracted with Spectrum Enterprises to conduct compliance monitoring inspections in order to meet our federal mandate for property compliance monitoring in calendar year 2008 and 2009. Spectrum started conducting inspections in the Southern part of the state beginning in late 2007. If your property is chosen to be inspected by Spectrum, you are to give them the same courtesies and cooperation as you do the CTCAC staff.

#### **VII. CTCAC's Policy Memo 04-01 dated January 27, 2004 is still in effect and can be found on our website at: [www.treasurer.ca.gov/ctcac/compliance.asp](http://www.treasurer.ca.gov/ctcac/compliance.asp)**

## **VIII. CTCAC's 2008 Monitoring List on Website**

On April 16, 2008, CTCAC posted a copy of our 2008 monitoring inspection list on the website for informational purposes only. The list was current as of March 2008 and will be updated quarterly as newly placed in-service developments are added to the list.

## **IX. CTCAC Compliance Manual on Website**

On May 9, 2008, a copy of our CTCAC Compliance Manual will be posted to the website, along with a copy of the IRS Guide for Completing Form 8823, a copy of HUD Handbook 4350.3 REV-2 –Chapter 5 and a copy of this memo for information and guidance.

Please refer to these materials for additional clarifications, and keep an eye on the CTCAC website for any future policy updates regarding any new changes.

Thank you for your continued cooperation with the implementation of these policies. CTCAC looks forward to a productive and positive working relationship in the coming year. If you have any question regarding the change in policies, you may reach the Program Managers at (916) 654-6340.