



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: December 27, 2012
TO: Low Income Housing Tax Credit Project Owners and Applicants
FROM: California Tax Credit Allocation Committee (TCAC)
RE: 2013 Income Limits and Maximum Rents

On December 4, 2012, the U.S. Department of Housing and Urban Development (HUD) published the 2013 Income Limits applicable to low income housing funded with Low Income Housing Tax Credits (LIHTC) and projects financed with tax-exempt housing bonds, both are referred to by HUD as Multifamily Tax Subsidy Projects (MTSPs). On December 11, 2012, HUD revised the 2013 Income and Rent Limits. It was noted that HUD did not determine a change to the effective date on the limits released on December 11th, so the Internal Revenue Service (IRS) has determined that the effective date of the Income and Rent Limits to remain at December 4th 2012. TCAC utilizes the information published by HUD to calculate maximum rents and income limits for California LIHTC projects.

Please read this memo carefully to determine which set of income limits and maximum rents are applicable to your project(s).

Changes to Income Limits for Multifamily Tax Subsidy Projects (MTSPs) under HERA:

The Housing and Economic Recovery Act (HERA) of 2008 made statutory changes to how income limits are calculated for MTSPs (LIHTC and bond-financed properties). The new subpart (E) of Section 142(d)(2), as added by Section 3009(a) of HERA provides for immediate holding harmless of "area median gross income" for MTSP income limits. As a consequence of this legislation, beginning with FY 2010, HUD will no longer hold its Section 8 income limits harmless.

Impacted and Non-Impacted MTSP projects:

- **Impacted Project** – An Impacted Project is any project which had area median gross income determined in 2007 or 2008 under the HUD Hold Harmless policy, for which HUD has published a HERA Special limit and meets the following requirements:
 1. Any single building project that Placed in Service on or before 12/31/2008.

2. Any Multi-building project¹ that had at least one building Place in Service on or before 12/31/2008.
3. Any acquisition/rehab project that has the date of acquisition on or before 12/31/2008.
4. Any rehab only project that had at least one building Place in Service on or before 12/31/2008.

Some HUD Impacted projects are located in counties that are designated ***HERA Special Counties***. A project uses HERA Special limits if it is an Impacted Project (see above for definition) and the project is in a ***HERA Special County***. Please see IRS LIHC Newsletter #35 for more information about what constitutes “determined” and projects that were placed in service before or after the HUD income limit effective dates at the following link:

http://treasurer.ca.gov/ctcac/rentincome/09/irs_lowincome.pdf

In California, for the years 2009, 2010, 2011, and 2012, there were seven designated HERA Special counties:

Marin
Nevada
San Francisco
San Mateo
Santa Clara
Solano
Ventura

For the year 2013, HUD released HERA Special Limits for 3 additional counties in California due to decreases in AMI from 2012 to 2013. For these counties the HERA Special Limit is equal to the 2012 MTSP limit due to the HERA Hold Harmless provisions. These counties are:

Alameda
Contra Costa
Sonoma

- **Non-Impacted** – Non-Impacted MTSPs are projects that were not subject to the HUD Hold Harmless policy in 2007 or 2008, placed in service on or after January 1, 2009, or may not be affected by HERA Special Limits at this time. All Non-Impacted properties are still under the provisions of HERA Hold Harmless once they have placed in service and are subject to the 45 day rule.
 - For existing non-Impacted projects where the placed in service date is 1/1/2009 – 5/13/2010, you would use the greatest of the 2009, 2010, 2011, 2012 or the 2013 income and rent limits.
 - For existing non-Impacted projects where the placed in service date is 5/14/10 – 5/30/2011:
 - The Income Limit is the greatest of the 2010, 2011, 2012 or 2013 income limits.
 - The Rent Limit is the greatest of the 2010, 2011, 2012 or 2013 rent limit **or** the gross rent floor election*. TCAC will determine the gross rent floor election to be at carryover allocation for 9% tax credit projects or at preliminary reservation for

¹ As determined by the election of “yes” on Pt. 2 Line 8b of the 1st year filing of the 8609 form

- 4% bond projects unless written notification is made by the owner to TCAC specifying the gross rent floor election is to be at placed in service.
- For existing non-Impacted projects where the placed in service date is 5/31/11 – 11/30/11:
 - The Income Limit is the greater of the 2011, 2012 or 2013 income limits.
 - The Rent Limit is the greatest of either the 2011, 2012 or 2013 rent limit **or** the gross rent floor election*. TCAC will determine the gross rent floor election to be at carryover allocation for 9% tax credit projects or at preliminary reservation for 4% bond projects unless written notification is made by the owner to TCAC specifying the gross rent floor election is to be at placed in service.
 - For existing non-Impacted projects where the placed in service date is 12/1/11 – 12/04/12:
 - The Income Limit is the greater of the 2012 or 2013 income limits.
 - The Rent Limit is the greatest of either the 2012 or 2013 rent limit **or** the gross rent floor election*. TCAC will determine the gross rent floor election to be at carryover allocation for 9% tax credit projects or at preliminary reservation for 4% bond projects unless written notification is made by the owner to TCAC specifying the gross rent floor election is to be at placed in service.
 - For non-Impacted projects which are placed in service on or after the effective date of 2013 MTSP income limits – **December 4, 2012:**
 - The Income limits will be the MTSP/Section 8 limits as determined by HUD.
 - The Rent limit will be the greater of the current rent limits as published by HUD **or** the owner's gross rent floor election*. TCAC will determine the gross rent floor election to be at carryover allocation for 9% tax credit projects or at preliminary reservation for 4% bond projects unless written notification is made by the owner to TCAC specifying the gross rent floor election is to be at placed in service.

Future Changes to the Income Limits for Multifamily Tax Subsidy Projects MTSPs under HERA:

Starting in 2010, HUD allowed the Section 8 income limits to fluctuate with the area median income for each county. At that time HUD also established a maximum and minimum amount that the AMI can change from year to year. The income limits issued for the Section 8 and MTSP program will not increase more than 5% or twice the national change in AMI (whichever is greater), nor will the limits decrease more than 5%. Please note: HUD does not apply the 5% cap to HERA Special Limits.

Each non-Impacted project will be subject to the current year's rent and income limits and will be held harmless at the highest income limit the property has achieved since it was placed in service should the income limits decrease in following years (*HERA Hold Harmless*). HUD will publish historical data on income limits, but each owner should retain a file evidencing their project's income limits and rents since placing the project into service.

Counties that are designated HERA Special on the Rent and Income limits are counties with projects that Placed in Service on or before 12/31/2008 and were subject to HUD Hold Harmless in either 2007 or 2008. In California, the seven original HERA Special Counties were held

harmless in both 2007 and 2008. They were subject to a boost in AMI in 2009 and continue to receive the benefit of HERA Hold Harmless. In 2013, three additional counties were designated HERA Special by HUD. These counties were originally subject to the HUD Hold Harmless in 2007, but AMI for those counties increased in 2008, and they were not originally given a boost the way the seven original HERA Special Counties were. The AMI continued to increase for those counties in 2009, 2010, 2011, and 2012. HUD did not publish a HERA Special limit for these counties from 2009 to 2012 since the HERA Special Limit was equal to the MTSP limit. In 2013, the AMI for these counties decreased which caused HUD to publish a HERA Special limit for these counties, since HUD does not allow HERA Special Income Limits to decrease. The limit of the new HERA Special counties is the same as the 2012 Income and Rent Limits.

The IRS has stated that properties in a Lease-up Phase during the 45-day grace period allowed for the implementation of the new Income Limits may elect to use either the 2012 or 2013 Income and Rent Limits, whichever is of greater benefit. However, the 2013 limits must be used for all buildings that place in service after January 18, 2013 or for properties that have elected or will elect “no” on Line 8b of the 8609 Form (*property not considered a multi-building project*). The same rule applies to buildings that place in service between the effective date of December 4, 2012 and the implementation date of January 18, 2013.

In 2013, the ACS data used by HUD to determine the 2013 Rent and Income Limits for each county included the information from years 2006-2010. The removal of Y2005 and the addition of Y2011 caused a significant decrease in many of the county limits published by HUD. Because of the decreases the majority of projects that Placed in Service before 12/4/2012 were subject to HERA Hold Harmless and did not see an increase in the Income and Rent limits for their counties. The counties that did see an increase in the 2013 limits are:

Counties with Increases in 2013:

- Placed in Service on or before 12/31/08
 - Alpine
 - Amador
 - Inyo
 - Lassen
 - Mariposa
 - Mono
 - Monterey
 - Santa Barbara
 - Sierra
 - Tuolumne
- Placed in Service 1/1/09 – 5/13/10
 - Alpine
 - Amador
 - Inyo
 - Lassen
 - Mariposa
 - Mono
 - Monterey
 - Santa Barbara
 - Sierra

- Tuolumne
- Placed in Service 5/14/10 – 5/30/11
 - Alpine
 - Amador
 - Inyo
 - Lassen
 - Mariposa
 - Mono
 - Monterey
 - Santa Barbara
 - Sierra
 - Tuolumne
- Placed in Service 5/30/11 – 11/30/11
 - Alpine
 - Amador
 - Inyo
 - Lassen
 - Mariposa
 - Mono
 - Monterey
 - San Benito
 - Santa Barbara
 - Sierra
 - Tuolumne
- Placed in Service 12/1/11 – 12/3/12
 - Alpine
 - Amador
 - Inyo
 - Lassen
 - Mariposa
 - Mono
 - Monterey
 - San Benito
 - San Diego
 - Santa Barbara
 - Sierra
 - Tuolumne

2012 Rent and Income Limits:

Starting in 2010 and going forward, TCAC has revised the format of the published Income and Rent limits to reflect the hold harmless policy as enacted by the 2008 HERA legislation.

Six (6) income limit tables and seven (7) rent limit tables are posted on the TCAC website.

2013 Income Limits for Projects Placed in Service on or before 12/31/2008 (*including HERA Special Projects*)

2013 Income Limits for Projects Placed in Service from 1/1/09 – 5/13/2010

2013 Income Limits for Projects Placed in Service from 5/14/2010 – 5/30/2011
2013 Income Limits for Projects Placed in Service from 5/31/2011 – 11/30/11
2013 Income Limits for Projects Placed in Service from 12/1/11 – 12/3/12
2013 Income Limits for Projects Placing in Service on or after 12/4/12

2013 Rent Limits for Projects Placed in Service on or before 12/31/2008 (post 1989)
2013 Rent Limits for Projects Placed in Service on or before 12/31/2008 (prior to 1990)
2013 Rent Limits for Projects Placed in Service from 1/1/09 – 5/13/2010
2013 Rent Limits for Projects Placed in Service from 5/14/2010 – 5/30/2011
2013 Rent Limits for Projects Placed in Service from 5/31/2011 – 11/30/11
2013 Rent Limits for Projects Placed in Service from 12/1/11 – 12/3/12
2013 Rent Limits for Projects Placing in Service on or after 12/4/12

All income limit tables reflect the current limits as determined by the HERA Special, HERA Hold Harmless, and MTSP guidance for 2009-2013.

Please note this memo provides summary information of published HUD guidance. **Please review the entire Federal Register notice [Docket No. FR-5323-N-03], dated May 17, 2010 prior to determining which income limits and maximum rents are applicable to your project(s).**

If you have any questions on the 2013 Rent & Income limit guidance, please contact either **Ammer Singh or Shannon Nardinelli, Compliance Program Managers at (916) 654-6340.**