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DATE: May 28, 2010  
 TO: Low Income Housing Tax Credit Project Owners and Applicants  
 FROM: Tax Credit Allocation Committee  
 RE: 2010 Income Limits and Maximum Rents

On May 14, 2010, the U.S. Department of Housing and Urban Development (HUD) published 2010 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). 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 Project (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 the Housing and Economic Recovery Act 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 MTSP is any project which had area median gross income determined in 2007 or 2008 under the HUD Hold Harmless policy.
  1. Any single building project that Placed in Service on or before 12/31/2008.
  2. Any Multi-building project<sup>1</sup> 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.

Some HUD Impacted projects are located in counties that are designated ***HERA Special Counties***. A project uses HERA Special limits if income was determined on or before

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

12/31/2008 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](http://treasurer.ca.gov/ctcac/rentincome/09/irs_lowincome.pdf)

In California, the following seven counties are designated **HERA Special**:

<b>Marin</b>	<b>Nevada</b>	<b>San Francisco</b>
<b>San Mateo</b>	<b>Santa Clara</b>	<b>Solano</b>
<b>Ventura</b>		

- **Non-Impacted** – Non-Impacted MTSPs are projects that were not subject to the HUD Hold Harmless policy in 2008 or Placed in Service on or after January 1, 2009.
  1. For existing non-Impacted projects where the placed in service date is 1/1/2009 – 5/13/2010 (*eligible for HERA Hold Harmless*), you would use the greater of the 2009 or the 2010 rent limits.
  2. For non-Impacted projects which are placed in service on or after the effective date of 2010 MTSP income limits - **May 14, 2010**:
    - a. The Income limits will be the MTSP/Section 8 limits as determined by HUD.
    - b. The Rent limit will be the greater of the current rent limits as published by HUD or the **owner’s gross rent floor election**<sup>2</sup>. TCAC will determine the gross rent floor election to be at carryover allocation for 9% tax credit projects. The gross rent floor election for 4% tax exempt bond projects will be determined at preliminary reservation unless specific 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:**

Going forward, HUD will allow the Section 8 income limits to fluctuate with the area median income for each county. However, HUD has established a maximum and minimum amount that the AMI can change. 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%.

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.

<sup>2</sup> see [Revenue Procedure 94-57 – Gross Rent Floor Election](#)

**2010 Rent and Income Limits:**

Based on the changes enacted by HUD, 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.

*\*All second round 2010 tax credit applications may only use the 2010 rent and income limit tables for projects placed in service on or after May 14, 2010.*

Three (3) income limit tables and four (4) rent limit tables are posted on the TCAC website.

[2010 Income Limits for Projects Placed in Service on or before 12/31/2008 \(including HERA Special Projects\)](#)

[2010 Income Limits for Projects Placed in Service from 1/1/09 – 5/13/2010](#)

[2010 Income Limits for Projects Placing in Service on or after 5/14/2010\\*](#)

[2010 Rent Limits for Projects Placed in Service on or before 12/31/2008 \(post 1989\)](#)

[2010 Rent Limits for Projects Placed in Service on or before 12/31/2008 \(prior to 1990\)](#)

[2010 Rent Limits for Projects Placed in Service from 1/1/09 – 5/13/2010](#)

[2010 Rent Limits for Projects Placing in Service on or after 5/14/2010<sup>3</sup>\\*](#)

All income limit tables reflect the current limits as determined by the HERA Special, HERA Hold Harmless, 2010 MTSP, and 2009 MTSP guidance.

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 2010 Rent & Income limit guidance, please contact either Ammer Singh or Shannon Nardinelli, Compliance Program Managers at (916) 654-6340.

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<sup>3</sup> 2010 Rent Limits for Projects Placed in Service after 5/14/2010 does not reflect adjustment for gross rent floor election.