



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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**DATE:** October 21, 2022, update to February 3, 2022 Memorandum

**TO:** Project Owners and Management Agents of Low-Income Housing Tax Credit (LIHTC) Projects

**FROM:** California Tax Credit Allocation Committee – Compliance Section

**RE:** IRS Guidance for 2022 – IRS Notice 2022-52

This memorandum serves as guidance from the California Tax Credit Allocation Committee (“CTCAC”) to owners and property management companies of LIHTC projects in California with regards to [IRS Notice 2022-52](#) (“Notice 2022-52”) which provides additional temporary relief from certain requirements of Internal Revenue Code (IRC) Section 42 the LIHTC program. These temporary relief measures are:

### **Time Sensitive Actions – postponed**

For the following actions that were due to be performed between the period of April 1, 2020 and December 31, 2022, the IRS will postpone deadlines according to the following schedule:

1. 10 Percent (10%) Test deadline extended (no changes from IRS Notice 2022-05 and February 3, 2022 memorandum)
  - a. If the original deadline for the project was between 4/1/2020 and 12/31/2020, the deadline is extended to the original deadline + 2 years
  - b. If the original deadline for the project was between 1/1/2021 and 12/31/2022, the deadline is extended to 12/31/2022
2. 24-month minimum rehabilitation expenditure deadline extended (no changes from IRS Notice 2022-05 and February 3, 2022 memorandum)
  - a. If the original deadline for the project was between 4/1/2020 and 12/31/2021, the deadline is extended to the original deadline + 18 months

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- b. If the original deadline for the project was between 1/1/2022 and 6/30/2022, the deadline is extended to 6/30/2023
  - c. If the original deadline for the project was between 7/1/2022 and 12/31/2022, the deadline is extended to the original deadline + 12 months
  - d. If the original deadline for the project was between 1/1/2023 and 12/30/2023, the deadline is extended to 12/31/2023
3. Placed in Service (PIS) Deadline
  - a. If the original deadline for the project was the close of calendar year 2020, the PIS deadline is extended to the close of calendar year 2022 (December 31, 2022).
  - b. If the original deadline for the project was the close of calendar year 2021 and the original deadline for the 10% Test was before April 1, 2020, the PIS deadline is extended to the close of calendar year 2023 (December 31, 2023).
  - c. If the original deadline for the project was the close of calendar year 2021 and the original deadline for the 10% Test was after April 1, 2020, and on or before December 31, 2020, the PIS deadline is extended to the close of calendar year 2023 (December 31, 2023).
  - d. If the original deadline for the project was the close of calendar year 2022 and thus the original deadline for the 10% Test was in 2021, the PIS deadline is extended to the close of calendar year 2024 (December 31, 2024).
  - e. If the original deadline for the project was the close of calendar year 2023 and thus the original deadline for the 10% Test was in 2022, the PIS deadline is extended to the close of calendar year 2024 (December 31, 2024).
4. Occupancy Obligations (no changes from IRS Notice 2022-05 and February 3, 2022 memorandum)
  - a. If the close of the first-year credit period is between 4/1/2020 and 12/31/2022, then for purposes of the IRS the qualified basis for the building for the first year is calculated by taking into account any increase in the low-income units by the close of the first year + 6 months
5. Casualty Loss
  - a. If the reasonable restoration period ends on or after 4/1/2020, the period is extended by 24 months, but no later than 12/31/2023.

### **Compliance Monitoring**

Notice 2022-52 extends and reverts back to some of the previous provisions from IRS Notices 2020-53, 2021-12 and, 2022-05. The changes are as follows:

1. Beginning 1/1/2023, reasonable notice of intent to conduct an inspection will revert back to no more than 15 calendar days.

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2. Notice 2022-52 grants a moratorium on physical inspections of a project through 12/31/2023 if the level of COVID-19 transmission makes such an extension appropriate. An agency should follow general or specific health and safety recommendations of a state or local public health authority. The extension may be statewide, limited to specific locales, or may be on a project-by-project basis. The notice does not extend the moratorium on states conducting file audits during the same period.
  - a. Due to the potential of high interstate and intrastate traffic, states may extend the waiver on physical inspections through 12/31/2023. The normal parameters will resume on 1/1/2024.
3. If a correction period ends on or after 4/1/2020, and before 12/31/2022, then the correction period for non-compliance findings can be extended by a year, but not beyond 12/31/2023. If the correction period originally set ends during 2023, the end of the period is extended to 12/31/2023 (an agency may require a shorter extension, or no extension at all).

### Reasonable Notice

In California, CTCAC will return to a 15-day Notification of Intent to Conduct a Monitoring Inspection starting 1/1/2023.

### Physical Inspections

In California, CTCAC has resumed full file and physical inspections at LIHTC projects since 7/1/2022. Depending on need and/or COVID-19 transmission rates, CTCAC may switch a project's inspection from a full inspection to a desk audit through 12/31/2023. In most instances, projects that receive a desk audit during this period will not have a physical audit on the project until their next normal auditing cycle. However, CTCAC reserves the right to schedule a physical inspection on any project, if there is an indication that proper maintenance is not occurring or has been deferred.

### Correction Period

In California, for inspections that were or will be conducted for the period of 4/1/2020 – 12/31/2023, CTCAC will continue to offer a 60-day correction period for non-compliance findings. If there is a valid need to extend the correction period, an owner can request from CTCAC a longer correction period. CTCAC will evaluate each request on a case-by-case basis.

The CTCAC Compliance Section thanks you for your patience and understanding as we continually monitor COVID-19 and work towards meeting our LIHTC obligations, while maintaining respect for the safety and health of CTCAC staff, the staff of the owner and management companies we serve, and the residents who reside in tax credit projects. As circumstances change, CTCAC may provide additional guidance or change existing guidance to better reflect information provided by the IRS, the Governor of California, the Center for Disease Control (CDC), or state and local public health agencies.

IRS Guidance for 2022 – IRS Notice 2022-52

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If you have any questions, please contact Senior Program Managers Elizabeth Gutierrez-Ramos or Shannon Nardinelli by email at [elizabeth.gutierrez@treasurer.ca.gov](mailto:elizabeth.gutierrez@treasurer.ca.gov) and [shannon.nardinelli@treasurer.ca.gov](mailto:shannon.nardinelli@treasurer.ca.gov) or by phone at 916-654-6340.