



## CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: April 10, 2020  
TO: Low Income Housing Tax Credit Project Owners and Applicants  
FROM: California Tax Credit Allocation Committee (TCAC)  
RE: 2019 Income Limits and Maximum Rents (updated)

On March 31, 2020, the U.S. Department of Housing and Urban Development (HUD) published the 2020 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. The 2020 limits go into effect on April 1, 2020.

*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 project 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](http://treasurer.ca.gov/ctcac/rentincome/09/irs_lowincome.pdf)

In California, there were seven designated HERA Special counties:

Marin  
Nevada  
San Francisco  
San Mateo  
Santa Clara (not HERA Special in 2019)  
Solano  
Ventura (not HERA Special in 2019)

**Note: In 2020 the applicable HERA Special rent and income limits for Marin, San Francisco, San Mateo, Ventura and Santa Clara Counties were equal to the MTSP rent and income limits for the county and they are not considered HERA Special for 2020.**

- **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 greater of the previous year (2019) or the current (2020) 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 greater of the previous year (2019) or the current (2020) income limit.
    - The Rent Limit is the greater of the current year (2020) **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 5/31/11 – 11/30/11:
    - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
    - The Rent Limit is the greater of the current year (2020) **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 previous year (2019) or the current (2020) income limit.
- The Rent Limit is the greater of the current year (2020) **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 12/4/12 – 12/17/13:
  - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent Limit is the greater of the current year (2020) **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 12/18/13 – 3/5/2015:
  - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent Limit is the greater of the current year (2020) **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 3/6/2015 – 3/27/16:
  - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent limit will be the greater of the current year (2020) **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 3/28/2016 – 4/13/17:
  - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent limit will be the greater of the current year (2020) **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 4/17/2017 – 3/31/18:
  - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent limit will be the greater of the current year (2020) **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 4/18/2018 – 4/23/19:
  - The Income Limit is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent limit will be the greater of the current year (2020) **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 where the placed in Service date is April 24, 2019 – March 31, 2020:
  - The Income limits is the greater of the previous year (2019) or the current (2020) income limit.
  - The Rent limit will be the greater of the current year (2020) 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.
- For non-Impacted projects which are placed in service on or after the effective date of 2020 MTSP income limits – **April 1, 2020:**
  - The Income limits will be the MTSP 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.

**Changes to the Income Limits for Multifamily Tax Subsidy Projects MTSPs under HERA and subsequent legislation:**

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 change in the national non-metro 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.

Counties that are designated HERA Special on the 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 continued 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 designation of HERA Special each subsequent year after 2013 may fluctuate based on HUD's determination as it is preparing the limits. If the HERA Special is equal to the MTSP Limit for the current year the county may lose its HERA Designation for that year but may regain it in future years. This Memo and the Limits will indicate which counties are HERA Special in any given year.

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 2019 or 2020 Income or Rent Limits, whichever is of greater benefit. The same rule applies to buildings that place in service between the effective date of April 1, 2020 and the implementation date of May 15, 2020. However, the 2020 limits must be used for all buildings that place in service on or after May 15, 2020 or for properties that have elected or will elect "no" on Line 8b of the 8609 Form (*property not considered a multi-building project*).

For 2020, the ACS data used by HUD to determine the 2020 Rent and Income Limits for each county included the information from years 2014-2018.

On March 23, 2018, the omnibus appropriations bill was signed into law, which included a change to Section 42 of the Internal Revenue Code allowing "Average Income Test," under which a project may include units targeted up to 80% of area median income (AMI) as long as the project's average targeting does not exceed 60% AMI. In 2018 TCAC implemented regulation changes that allowed certain projects that would PIS between 2016-2018, to change to the Average Income Test set-aside. The 2018 and all future Income and Rent limits will reflect the averages from 20% up to 80%.

### **2020 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.

Thirteen (13) income limit tables and fourteen (14) rent limit tables are posted on the TCAC website.

2020 Income Limits for Projects Placed in Service on or before 12/31/2008 (*including HERA Special Projects*)

2020 Income Limits for Projects Placed in Service from 1/1/09 – 5/13/2010

2020 Income Limits for Projects Placed in Service from 5/14/2010 – 5/30/2011

2020 Income Limits for Projects Placed in Service from 5/31/2011 – 11/30/11

2020 Income Limits for Projects Placed in Service from 12/1/11 – 12/3/12

2020 Income Limits for Projects Placed in Service from 12/4/12 – 12/17/13

2020 Income Limits for Projects Placed in Service from 12/18/13 – 3/5/15

2020 Income Limits for Projects Placed in Service from 3/6/15 – 3/27/16

2020 Income Limits for Projects Placed in Service from 3/28/16 – 4/13/17

2020 Income Limits for Projects Placed in Service from 4/14/17 – 3/31/18  
2020 Income Limits for Projects Placed in Service from 4/1/18 – 4/23/19  
2020 Income Limits for Projects Placed in Service from 4/24/19 – 3/31/20  
2020 Income Limits for Projects Placing in Service on or after 4/1/20+

2020 Rent Limits for Projects Placed in Service on or before 12/31/2008 (post 1989)  
2020 Rent Limits for Projects Placed in Service on or before 12/31/2008 (prior to 1990)  
2020 Rent Limits for Projects Placed in Service from 1/1/09 – 5/13/2010  
2020 Rent Limits for Projects Placed in Service from 5/14/2010 – 5/30/2011  
2020 Rent Limits for Projects Placed in Service from 5/31/2011 – 11/30/11  
2020 Rent Limits for Projects Placed in Service from 12/1/11 – 12/3/12  
2020 Rent Limits for Projects Placed in Service from 12/4/13 – 12/17/13  
2020 Rent Limits for Projects Placed in Service from 12/8/13 -3/5/15  
2020 Rent Limits for Projects Placed in Service from 3/6/15 – 3/27/16  
2020 Rent Limits for Projects Placed in Service from 3/28/16 – 4/13/17  
2020 Rent Limits for Projects Placed in Service from 4/14/17 – 3/31/18  
2020 Rent Limits for Projects Placed in Service from 4/1/18 – 4/23/19  
2020 Rent Limits for Projects Placed in Service from 4/24/19 – 3/31/20  
2020 Rent Limits for Projects Placing in Service on or after 4/1/20+

All income limit tables reflect the current limits as determined by the HERA Special, HERA Hold Harmless, and MTSP guidance for 2009-2020.

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 2020 Rent & Income limit guidance, please contact **Shannon Nardinelli, Compliance Program Manager at (916) 654-6340.**