



CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

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DATE: May 25, 2023
TO: Low Income Housing Tax Credit Project Owners and Applicants
FROM: California Tax Credit Allocation Committee (CTCAC)
RE: 2023 Income Limits and Maximum Rents

On May 15, 2023, the U.S. Department of Housing and Urban Development (HUD) published the 2023 Income Limits applicable to low income housing funded with Low Income Housing Tax Credits (LIHTC) and projects financed with tax-exempt housing bonds. CTCAC utilizes the information published by HUD to calculate maximum rents and income limits for California LIHTC projects. The 2023 limits go into effect on May 15, 2023. Projects that Place In Service (PIS) on or after May 15, 2023 have a 45 day grace period in which they may choose to use either the current 2023 Income and Rent Limits or the prior 2022 Income and Rent Limits for lease up and determining the gross rent floor election (GRFE) for the property. All properties that PIS on or after June 29, 2023 must use the 2023 Income and Rent limits.

The Housing and Economic Recovery Act (HERA) of 2008 made statutory changes to how income limits were calculated for projects. Prior to the HERA Legislation, income and rent limits were determined by HUD on an annual basis and were based on the Area Median Gross Income (AMGI) of the county the project was located in. Additionally, if HUD determined there was a decrease in the AMGI, the limits were “held harmless” at the level of the prior year. The HERA legislation changed the “hold harmless” determination of AMGI from an annual county level to a project level, based on the year the project placed in service (HERA Hold Harmless). Additionally, it gave an adjusted increase in the income limits (HERA Special) to projects in counties for which the AMGI had been determined to be held harmless in 2007 and 2008 (Impacted Properties). 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, there were initially seven designated HERA Special counties:

Marin
Nevada
San Francisco
San Mateo
Santa Clara

Solano
Ventura

Note: In 2023 the applicable adjusted HERA Special rent and income limits for Ventura County were equal to the MTSP rent and income limits for the county and they are not considered HERA Special for 2023.

In 2010, HUD announced that they were creating the Multifamily Tax Subsidy Program (MTSP) Limits for all LIHTC properties going forward, separating them from the Section 8 limits, and eliminating the previous hold harmless policy. 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 programs will not increase more than 5% or twice the change in the national non-metro AMGI (whichever is greater), nor will the limits decrease more than 5%. With the change in policy, HERA Hold Harmless provisions apply to all projects that were placed in service on or after January 1, 2009 and all future projects. The elimination of the HUD hold harmless policy created separate income and rent tables, adjusted annually, based on the projects PIS date (Non-Impacted).

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.
- **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 implementation grace period.
 - For existing non-Impacted projects where the placed in service date is 1/1/2009 – 5/14/2023, you would use the greater of the previous year (2022) or the current (2023) income and rent limits.
 - The Rent Limit is the greater of the current year (2023) **or** the gross rent floor election. CTCAC 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 CTCAC 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:

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, CTCAC implemented regulation changes that allowed certain projects that would PIS in or after 2018, to change to the Average Income Test set-aside. The 2018 and all future Income and Rent limits reflect the averages from 20% up to 80%.

In 2022, the increase in the MTSP Limits for all counties in California (except Mono County) was such that CTCAC was able to combine the previous 15 Income and 16 Rent Tables into 5 Income and 6 Rent tables. By combining these, CTCAC was able to eliminate duplicative tables and ease the burden of review by developers, owners, asset managers, and management companies. In 2023, CTCAC was able to further reduce the Income and Rent Tables.

2023 Income and Rent Limits:

Four counties in California saw a decrease in the AMGI for 2023, all other counties increased. The counties with a decrease are:

Marin
San Francisco
San Mateo
Sierra

In 2023, CTCAC combined tables with duplicative information and the resulting three (3) income limit tables and three (3) rent limit tables are posted on the CTCAC website.

2023 Income Limits for Projects Placed in Service on or before 12/31/2008 (*including HERA Special Projects*)

2023 Income Limits for Projects Placed in Service from 1/1/09 – 5/14/2023

2023 Income Limits for Projects Placing in Service on or after 5/15/23+

2023 Rent Limits for Projects Placed in Service on or before 12/31/2008 (post 1989)

2023 Rent Limits for Projects Placed in Service from 1/1/09 – 5/14/2023

2023 Rent Limits for Projects Placing in Service on or after 5/15/23+

Note: for projects pre-1990 that use a per person based rent limit, please contact Compliance Section Chief Shannon Nardinelli at shannon.nardinelli@treasurer.ca.gov to receive a copy of the 2023 rent limits.

All income limit tables reflect the current limits as determined by the HERA Special, HERA Hold Harmless, and MTSP guidance for 2009-2023.

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 2023 Rent & Income limit guidance, please contact Compliance Section Chiefs, Shannon Nardinelli at shannon.nardinelli@treasurer.ca.gov or Elizabeth Gutierrez-Ramos at elizabeth.gutierrez@treasurer.ca.gov or by calling (916) 654-6340.