



March 23, 2020

Ms. Nicole Cimino
Branch Chief
Office of Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Michael Novey
Associate Tax Legislative Counsel
Office of Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Cimino and Mr. Novey:

The National Council of State Housing Agencies (NCSHA¹), on behalf of all of the Low Income Housing Tax Credit (Housing Credit) allocating agencies, urges The Internal Revenue Service (IRS) and U.S. Department of the Treasury (Treasury) to take immediate action to provide deadline extensions and other necessary accommodations for the Housing Credit program in light of the severe disruptions the COVID-19 pandemic is having on development and construction activities and the ongoing operations of existing Credit properties.

Given the importance of safeguarding the health of Housing Credit development residents, property management staff, state and local inspectors, and others, the entire Housing Credit industry is, understandably, following social distancing recommendations. However, doing so is resulting in shortages of construction materials, delays in permitting and local approvals, and severe interruption of property managers' ability to interact with residents and key partners as needed to continue regular property operations. Moreover, state Housing Credit agencies have limited, or, in some cases, no ability to complete development approvals and regular compliance monitoring functions while the crisis is ongoing.

Due to the severity of the situation, we strongly urge the IRS and Treasury to issue immediate guidance providing the following accommodations, which are needed to allow the Housing Credit community to adapt as best is possible during this time:

- Provide a 12-month extension of the 10% Test deadline for carryover allocations as required by IRC Section 42(h)(1)(E)(ii) and IRS regulation 1.42-6.

¹ NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

- Provide a 12-month extension of the 24-month minimum rehabilitation expenditure deadline as required by IRC Section 42(e)(3) and IRC Section 42(e)(4).
- Provide a 12-month extension of the placed in service deadline as required in IRC Section 42(h)(1)(E)(i).
- Provide at minimum a 12-month extension of the 25-month rehabilitation period currently allowed under IRS Revenue Procedures 2014-49 and 2014-50 to properties that suffered a casualty loss due to a Presidentially declared major disaster in the 25-month period prior to the onset of COVID-19. State Housing Credit agencies should be allowed to set restrictions within this period.
- Provide a 12-month extension of the year-end deadline for property restoration for any property that suffers a casualty loss not associated with a major disaster during 2020 (until December 31, 2021). State Housing Credit agencies should be allowed to set restrictions within this period.
- Provide a 12-month moratorium on both physical inspections and tenant file reviews as required by IRS regulation 1.42-5. State Housing Credit agencies should continue to monitor emergency work orders during this time, and should be allowed to continue or resume inspections depending on their assessment of the situation in their state and their ability to do so, but there should be no penalty for states or owners if inspections are not completed during this time.
- Provide a 12-month moratorium on tenant income recertification requirements. State Housing Credit agencies should be allowed to continue or resume requiring property managers to conduct recertifications depending on their assessment of the situation in their state and their ability to do so.
- Provide a 12-month extension for all open noncompliance corrective action periods. State Housing Credit agencies should be allowed to reinstate deadlines depending on their assessment of the situation in their state and their ability to do so.
- Suspend the yet-to-be implemented IRS regulation 1.42-5 which will increase the number of required compliance monitoring physical inspections even further than required under current regulations and exacerbate the inspection backlog.
- Provide guidance clarifying that the temporary closure of property amenities and common space facilities during the duration of the crisis (with the exception of laundry facilities) will not negatively impact a property's eligible basis and result in loss of Credits.

Depending on how long the crisis lasts, Congress and IRS may need to further extend these actions beyond the time periods we have requested in this letter.

We appreciate IRS and Treasury's attention to these critical issues at this busy time and stand ready to assist in any way that we can.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman", with a long horizontal flourish extending to the right.

Garth Rieman
Director of Housing Advocacy and Strategic Initiatives