

Mixed-Income Housing Solutions

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What is Income Averaging?

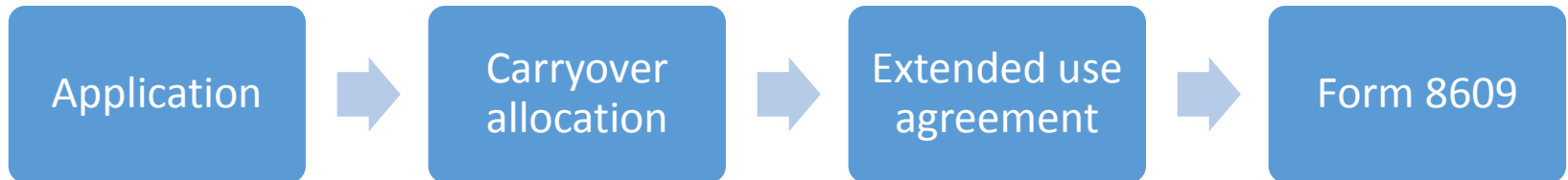
1. A new minimum set-aside, operates like the other two
 - Applies to rent and income
 - At least 40% of **units** must be LIHTC, with an average of 60%
 - Bedroom mix and unit size are not considered
 - Elected at 8609
2. Applies to how units are designated
 - Not the households themselves
 - No keeping track of a running average household incomes

Which properties are eligible (effective date)?

Status of Property	Federal	Allocating Agency

Designating Units

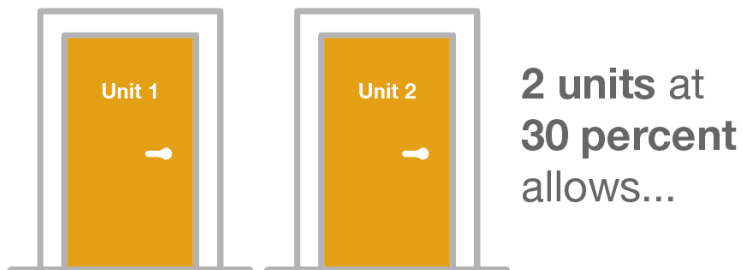
- When does it happen?



- Can units change designations and, if so, how?
- Definitely will need to shift some if not all units are LIHTC

Designating Units

- Must be 20%, 30%, 40%, 50%, 60%, 70% or 80%
- Can reach 60% average in a number of ways
- No federal requirement to designate a pro-rata share



Minimum Set-Asides

- A project meets the minimum set-aside if the owner rents
 - Four out of 10 units according to
 - Whatever are their designations

“The project meets the minimum [set-aside] if 40 percent or more... of the residential units in such project are both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated...”

- There is no mention of which units or that they are in any particular combination.

Multiple Buildings, Multiple Years

Form 8609 Low-Income Housing Credit Allocation and Certification
(Rev. October 2016)
Department of the Treasury Internal Revenue Service
OMB No. 1545-0048

Part I Allocation of Credit
 Addition to Qualified Basis Amended Form

A Name of building (do not use P.O. box) (see instructions) _____
B Name and address of housing credit agency _____
C Name, address, and TIN of building owner receiving allocation _____
D Employer identification number of agency _____
E Building identification number (BIN) _____

TIN _____

1a Date of allocation **1b** Maximum housing credit dollar amount allowable

2 Maximum applicable credit percentage allowable (see instructions) **2** %

3a Maximum qualified basis **3a** _____
b If the eligible basis used in the computation of line 2a was increased, check the applicable box and enter the percentage to which the eligible basis was increased (see instructions) **3b** 1 _____ %
 Building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone
 Section 42(b)(9)(B) high cost area provisions

4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-) **4** %

5 Date building placed in service _____

6 Check the boxes that describe the allocation for the building (check those that apply):
 Newly constructed and federally subsidized Newly constructed and not federally subsidized Existing building
 Sec. 42(e) rehabilitation expenditures federally subsidized Sec. 42(e) rehabilitation expenditures not federally subsidized
 Allocation subject to nonprofit set-aside under sec. 42(b)(9)

Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official _____ Name (please type or print) _____ Date _____

Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

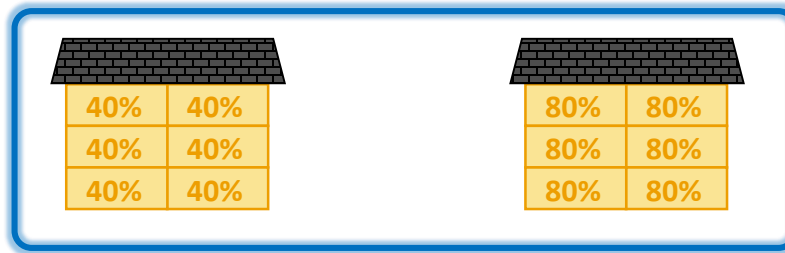
a Elect to begin credit period the first year after the building is placed in service (section 42(b)(1)) Yes No
b Elect not to treat large partnership as taxpayer (section 42(b)(2)) Yes No
c Elect minimum set-aside requirement (section 42(g)) (see instructions) 20-50 40-60 25-50 (N.Y.C. only) 15-40
d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) Yes No

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature _____ Employer identification number _____ Date _____
 Name (please type or print) _____ First year of the credit period _____

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63201U Form 8609 (Rev. 10-2016)

Project



Form 8609

Resyndication at Y15

- Even more unknown than setting and shifting designations
- Current existing extended use agreements
 - Remain in effect after a new allocation,
 - Have 60% AMI rent maximums, and
 - Give tenants the right to enforce
- Issue is who counts as a third party beneficiary
- May be easier if the property has unrestricted units

Resyndication at Y15

- A project meets the minimum set-aside if the owner rents
 - 40% of the units according to
 - whatever are their designations

“The project meets the minimum [set-aside] if 40 percent or more... of the residential units in such project are both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated...”

- There is no mention of which units or that they are in any particular combination.

Agency Implementation

- 12 agencies have issued policies, made statements, etc.
 - CA, GA, IN, MD, MI, MN, OH, PA, SD, TX, WA, WV
 - Known as of June 15th, could be more
- Varied in both extent and substance
- Initial question is availability to recent awards
 - Some allow (unless extended use is recorded)
 - Conditions apply (e.g., scoring, new market study)
- Eventually all QAPs will have a provision

Agency Implementation, con't

- Consensus (mostly) on
 - Consent from debt and equity
 - Making the multi-building election
- Variation on
 - Parity in the bedroom / AMI designations mix
 - Allowing future designation changes
- Agencies need input from all perspectives, especially compliance experts

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