



# *Back to Basics*

## **Compliance Monitoring**





RHODE ISLAND HOUSING

## HOUSING CREDIT PROGRAM

### COMPLIANCE MONITORING MANUAL

#### INITIAL COMPLIANCE

##### Buildings' Applicable Fraction

The amount of Housing Credits for which a building is eligible is based on the percentage of low-income units and the eligible cost of the building. The benchmark value that reflects the number of Housing Credit units is called the building's applicable fraction.

*The applicable fraction is the portion of a building leased as low-income units.  
The fraction is the lesser of:*

- Number of low-income units as a percentage of total residential units also known as the Unit Fraction; or*
- Total floor space of low-income units as a percentage of total floor space of total residential units also known as the Floor Space Fraction*

The anticipated applicable fraction for a project is found in the Declaration of Land Use Restrictive Covenant. The fractions for individual buildings should be obtained from the Owner/Agent.

The applicable fraction is established in the first year of the Compliance Period. Projects that are not 100% low-income need to maintain the correct number of low-income units or square feet in order to be in compliance with Section 42. If the percentage of units rented to qualified households in subsequent years drops below the applicable fraction, the amount of Housing Credits the building is eligible for in that year will also decrease, and the owner may also be subject to credit recapture.

##### Buildings' Qualified Basis

The Housing Credits allocated to the owners result from their investment in constructing, buying and or rehabilitating the buildings in the project. Each building's qualified basis is determined by multiplying its applicable fraction of low-income units by the eligible cost basis for the building. The original qualified basis is the amount established at the close of the first year of the Compliance Period.

Units which have not been leased for the first time to low-income tenants by the end of the first year of the Compliance Period will earn Housing Credits at a reduced rate rather than the maximum dollar amount available.

**Original:** text heavy, limited examples, no flow charts





# LIHTC Compliance Manual



March 2019

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beneficial to projects where income limits might fluctuate from year to year and helps the project to better achieve economic stability. For purposes of this rule, a project “places in service” when the first building in the project places in service. “Project” is defined by the 8609 8(b) multi-building election (see Chapter 7, *Minimum Set-Aside* for further information on the 8(b) election).

Question to determine if holding harmless at a prior year’s limits is appropriate:

- Has any year’s income limit since the later of 2008 or the property placed in service date been higher than current limits?

If “yes”, the property holds harmless at the prior higher limits.

Questions to determine if *HERA Special* limits are applicable:

- Was any building in the project placed in service prior to January 1, 2009?
- Does HUD list the *HERA Special* option for the area?

If “yes” to both questions above, the property may use the *HERA Special* limit.

### EXAMPLE Held Harmless Limits

**2018** *Income limits are published*

**Property 1** places in service and uses the income limits published for 2018.

**2019** *Published limits for the area decrease*

**Property 1** continues to use the 2018 limits.

**Property 2** in the same area places in service in 2019. It uses the 2019 limits, which are lower than the limits allowable to older **Property 1**.

**2020** *Published limits decrease again*

**Property 1** holds harmless at 2018 limits.

**Property 2** remains at the 2019 limits.

**2021** *Income limits go up and exceed the 2018 limits.*

**Both projects** will now use the 2021 limits and hold harmless to those limits if necessary, in the future.



**New:** user friendly, clickable index, highly graphic, case studies and extensive examples



# LIHTC Compliance Manual



*How the Minimum Set-Aside Works*

**10** Check the appropriate box for each election.  
**Caution:** Once made, the following elections are irrevocable.

- a** Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶  Yes  No
- b** Elect **not** to treat large partnership as taxpayer (section 42(j)(5)) . . . . . ▶  Yes
- c** Elect minimum set-aside requirement (section 42(q)) (see instructions):
  - 20-50
  - 40-60
  - Average income
  - 25-60 (N.Y.C. only)

**20-50**  
 20% of units, minimum, must be LIHTC  
 50% is the income and rent limit for ALL LIHTC units

**40-60**  
 40% of units, minimum, must be LIHTC  
 60% is the income and rent limit for ALL LIHTC units

**Average Income**  
 40% of units, minimum, must be LIHTC  
 60% is the average income and rent limit designation for ALL LIHTC units, which may be 20-80% (10% increments).

## Income Averaging Details

In 2018, the Income Averaging Minimum Set Aside option was added by Congress. RIHousing allowed projects that had not recorded a LURA when the law passed to select income averaging.

Additionally, RIHousing reserves the right to impose the following state rule: Owners that elect Income Averaging must have an average income targeting that does not exceed 58% MTSP. The purpose of this provision is to ensure that projects remain safely in compliance with the federal maximum requirement of the 60% average under Income Averaging.



### **EXAMPLE Resident on Active Duty with Spouse in Unit**

An adult daughter is living with her father and mother in an LIHTC unit while her husband is absent on active duty.

Both she and her husband, and their income, must be counted (in addition to her mother and father's income)

### **EXAMPLE Resident on Active Duty with Dependents in Unit – 1**

The single-parent head of household goes on active duty and her adult sister moves into her LIHTC unit to provide care for her three children while she is gone.

The head and children are still counted, but the temporary caregiving sister, and any income she has, should be excluded.

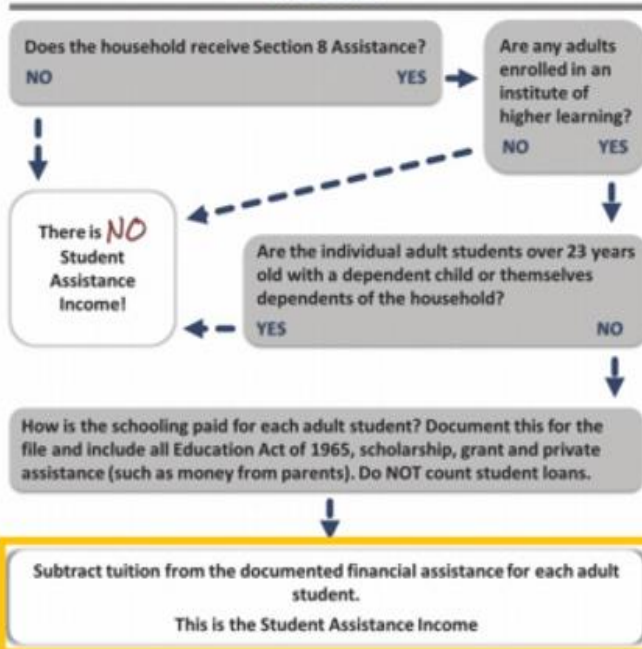
### **EXAMPLE Resident on Active Duty with Dependents in Unit – 2**

A single parent goes on active duty and moves her children into her parent's unit to care for her children while she is gone.

Neither the person on active duty, her children, nor any of their income is counted.

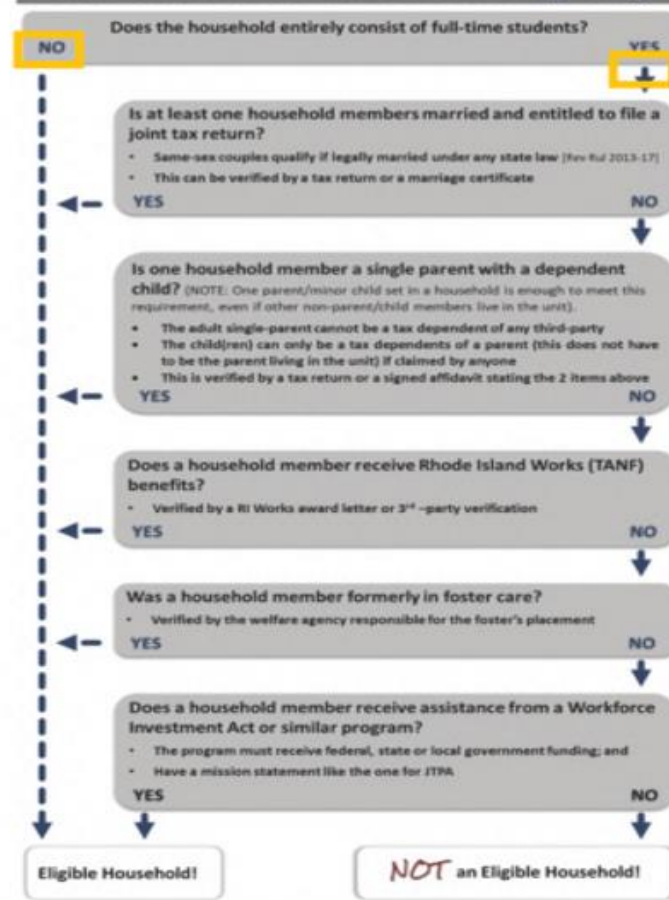


## Flow Chart: Calculating Student Assistance Income



Student rules can be tricky, so we've taken away the guesswork by adding user-friendly flow charts for ease-of-use.

## Flow Chart: Tax Credit Student Eligibility



# Flow Charts



**SCHEDULE C**  
**(Form 1040)**  
Department of the Treasury  
Internal Revenue Service (IRS)

**Profit or Loss From Business**  
(Sole Proprietorship)

OMB No. 1545-0046  
**2018**  
Attachment  
Sequence No. 09

▶ Go to [www.irs.gov/ScheduleC](http://www.irs.gov/ScheduleC) for instructions and the latest information.  
▶ Attach to Form 1040, 1040NR, or 1041; partnerships generally must file Form 1065.

Name of proprietor: \_\_\_\_\_ Social security number (SSN): \_\_\_\_\_

**A** Principal business or profession, including product or service (see instructions) **B** Enter code from instructions

**C** Business name, if no separate business name, leave blank. **D** Employer ID number (EIN) (see instructions)

**E** Business address (including suite or room no.) ▶  
City, town or post office, state, and ZIP code

**F** Accounting method: (1)  Cash (2)  Accrual (3)  Other (specify) ▶

**H** If you started or acquired this business during 2018, check here  Yes  No

**J** If "Yes," did you or will you file required Forms 1099?  Yes  No

**Part I Income**

|   |  |   |
|---|--|---|
| 1 | Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked. | 1 |
| 2 | Returns and allowances   | 2 |
| 3 | Subtract line 2 from line 1  | 3 |
| 4 | Cost of goods sold (from line 42)  | 4 |
| 5 | Gross profit. Subtract line 4 from line 3  | 5 |
| 6 | Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)   | 6 |
| 7 | Gross income. Add lines 5 and 6  | 7 |

**Part II Expenses. Enter expenses for business use of your home only on line 30.**

|    |  |    |     |   |     |
|----|--|----|-----|---|-----|
| 8  | Advertising  | 8  | 18  | Office expense (see instructions)   | 18  |
| 9  | Car and truck expenses (see instructions)  | 9  | 19  | Pension and profit-sharing plans  | 19  |
| 10 | Commuting and travel   | 10 | 20  | Rent or lease (see instructions):   |     |
| 11 | Debt interest (see instructions)   | 11 | a   | Vehicles, machinery, and equipment  | 20a |
| 12 | Depreciation and section 179 expense deduction (not included in Part III) (see instructions) | 12 | b   | Other business property   | 20b |
| 13 | Depreciation and section 179 expense deduction (not included in Part III) (see instructions) | 13 | 21  | Repairs and maintenance   | 21  |
| 14 | Employee benefit programs (other than on line 18)  | 14 | 22  | Supplies (not included in Part III)   | 22  |
| 15 | Insurance (other than health)  | 15 | 23  | Taxes and licenses  | 23  |
| 16 | Interest (see instructions)  | 16 | 24  | Travel and meals:   |     |
| 17 | Legal and professional services  | 17 | a   | Travel  | 24a |
| 18 | Legal and professional services  | 18 | b   | Deductible meals (see instructions)   | 24b |
| 19 | Legal and professional services  | 19 | 25  | Wages (less employment credits)   | 25  |
| 20 | Legal and professional services  | 20 | 26  | Reserve for future use  | 26  |
| 21 | Legal and professional services  | 21 | 27a | Reserve for future use  | 27a |
| 22 | Legal and professional services  | 22 | 27b | Reserve for future use  | 27b |
| 23 | Legal and professional services  | 23 | 28  | Total expenses before expenses for business use of home. Add lines 8 through 27a  | 28  |
| 24 | Legal and professional services  | 24 | 29  | Tentative profit or (loss). Subtract line 28 from line 7  | 29  |
| 25 | Legal and professional services  | 25 | 30  | Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829 unless using the simplified method (see instructions). | 30  |
| 26 | Legal and professional services  | 26 | 31  | Not profit or (loss). Subtract line 30 from line 29.  | 31  |
| 27 | Legal and professional services  | 27 |     |   |     |
| 28 | Legal and professional services  | 28 |     |   |     |
| 29 | Legal and professional services  | 29 |     |   |     |
| 30 | Legal and professional services  | 30 |     |   |     |
| 31 | Legal and professional services  | 31 |     |   |     |
| 32 | Legal and professional services  | 32 |     |   |     |

**Simplified method filers only:** enter the total square footage of: (a) your home; and (b) the part of your home used for business. Use the Simplified Method Worksheet in the instructions to figure the amount to enter on line 30.

**31 Not profit or (loss).** Subtract line 30 from line 29.

- If a profit, enter on both **Schedule 1 (Form 1040), line 12** (or **Form 1040NR, line 12**) and on **Schedule SE, line 2**. If you checked the box on line 1, see instructions). Estates and trusts, enter on **Form 1041, line 3**.
- If a loss, you **must** go to line 32.

**32** If you have a loss, check the box that describes your investment in this activity (see instructions).

- If you checked **32a**, enter the loss on both **Schedule 1 (Form 1040), line 12** (or **Form 1040NR, line 12**) and on **Schedule SE, line 2**. (If you checked the box on line 1, see the line 31 instructions). Estates and trusts, enter on **Form 1041, line 3**.
- If you checked **32b**, you **must** attach **Form 8326**. Your loss may be limited.

**32a**  All investment is at risk.  
**32b**  Some investment is not at risk.

For Paperwork Reduction Act Notices, see the separate instructions. Cat. No. 11324F Schedule C (Form 1040) 2018

**CAUTION!** Business income line items that can affect calculations

If this is a new business, this box is checked, and the income on the return may reflect a partial year. Calculate accordingly.

Depreciation must be calculated on a straight line basis. If it is not, the business owner must supply calculations completed as if depreciation were claimed on a straight line basis.

Wages or contract labor paid to someone in the household may need to be included as employment income. If these are paid to persons outside the unit, this is not an issue.

Business losses do not offset other household income and should be counted as \$0



## **WARNING!** Avoiding Noncompliance Utility Allowances

Helpful reminders to assist in avoiding mistakes that can result in the loss of tax credits

**Understand and implement the 90-day rule!**

**For PHA estimates:** Make sure to ask the PHA every 60 days if the UA has changed. If the UA has increased, and the new UA plus the rent plus other required charges are over the LIHTC rent limit, the rent needs to be lowered no later than 90 days after the date of the UA change. *Keep documentation of the PHA's responses to inquiries in the project file.*

**All other estimates:** RIHousing and tenants must be notified of the new UA 90 days before any change in rent is implemented. *Keep copies of the notifications in household files.*



# Feedback

**I'm about 75% through your new manual. I have to say it seems to be very well written. Thank you.**

*Marilyn Carlson  
Senior Deputy Director  
SWAP, Inc.*

**I wanted to compliment you and the others on the Compliance Manual webinar today. Excellent work! Excellent Manual!**

**Thank you,**

*Rodney Hoel  
Director of Property Management  
Housing Opportunities Corporation*

**I just wanted to comment, that was one of the best webinars I have ever been on. Plus, the job your team and Costello did on the new LIHTC Guide is AMAZING!  
Thank you so much for the clear guidance.**

*Melissa Koseski  
Senior Vice President  
Wingate Companies*

**REALLY enjoying this manual!**

*Julie Leddy  
Executive Director  
Coventry Housing Authority*



# The RIHousing Compliance Crew



**Thank you!**

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