

IRS Regulatory Relief Available During COVID-19 Pandemic



On July 1, IRS issued Notice 2020-53 providing temporary relief to state Housing Credit allocating agencies, owners, and residents of Housing Credit properties in response to the COVID-19 pandemic. This matrix compares the accommodations IRS provides in that notice to recommendations for COVID-19 guidance that NCSHA sent to IRS in a March 23 letter and to existing disaster relief IRS provides under Revenue Procedures 2014-49 and 2014-50, which are applicable in cases of a Presidentially-declared Major Disaster.

ISSUE	NCSHA Recommendation to IRS for COVID-19 Guidance	IRS Revenue Procedures 2014-49 and 2014-50	IRS Notice 2020-53 COVID-19 Guidance
10% Test deadline as required in IRC Section 42(h)(1)(E)(ii)	12-month extension	6-month extension for properties in Major Disaster areas at discretion of Housing Credit agency; applicable only to properties with a 10% Test deadline on or after the date of the Major Disaster	Extension for projects with 10% Test deadlines falling on or after April 1, 2020 and before December 31, 2020 until December 31, 2020
Rehabilitation expenditure deadline as required in IRC Sections 42(e)(3) and 42(e)(4)	12-month extension	N/AP	Extension for projects with minimum rehabilitation expenditure period deadlines falling on or after April 1, 2020 and before December 31, 2020 until December 31, 2020
Placed in service deadline as required in IRC Section 42(h)(1)(E)(i)	12-month extension	12-month extension for properties in Major Disaster areas at discretion of Housing Credit agency; applicable only to properties receiving a carryover allocation on or before the date of the Major Disaster	N/AP
Rehabilitation period allowed under IRS Revenue Procedures 2014-49 and 2014-50 for casualty loss due to Major Disaster	12-month extension, at minimum	N/AP	Extension of restoration period after a casualty loss ending on or after April 1, 2020 and before December 31, 2020 until December 31, 2020
Year-end restoration period deadline for properties suffering a casualty loss in 2020 not for Major Disaster reasons	12-month extension	N/AP	N/AP, as the deadline for restoration after a casualty loss is already the end of the calendar year

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Physical inspections and tenant file reviews as required in IRS regulation 1.42-5	12-month moratorium; Housing Credit agencies to resume inspections at their discretion but no penalty for states or owners	N/AP	Waiver of required compliance monitoring physical inspections and tenant file reviews otherwise scheduled from April 1, 2020 until December 31, 2020; Housing Credit agencies must resume these compliance requirements after December 31, 2020
Tenant income recertifications	12-month moratorium; Housing Credit agencies to resume recertification requirements at their discretion	N/AP	Waiver of all tenant income recertifications otherwise due between April 1, 2020 and December 31, 2020; Owners must resume conducting income recertifications after December 31, 2020
Noncompliance corrective action periods	12-month extension; Housing Credit agencies to reinstate deadlines at their discretion	N/AP	N/AP
Implementation of new compliance monitoring requirements in IRS regulation 1.42-5	Indefinite suspension	N/AP	N/AP, although these requirements are repealed under separate guidance, IRS/Treasury Reg-123027-19)
Closure of property amenities and common space facilities	Guidance that temporary closure will not negatively impact property eligible basis	N/AP	Closures during the time period from April 1, 2020 to December 31, 2020 in response to the COVID-19 pandemic and not because of other noncompliance do not result in reduction of eligible basis
12-month transition period to meet set-asides for qualified residential rental projects in Section 5.02 of IRS Rev. Proc. 2004-39	N/AP	N/AP	Extension of transition periods ending on or after April 1, 2020 and before December 31, 2020 until December 31, 2020
2-year rehabilitation period for bonds used to provide qualified residential rental projects under Section 147(d)	N/AP	N/AP	Extension of rehabilitation periods ending on or after April 1, 2020 and before December 31, 2020 until December 31, 2020

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Emergency housing for medical personnel and other essential workers	N/AP	N/AP, although Rev. Proc. 2014-49 and 2014-50 allow use of Housing Credit properties to house Displaced Individuals, which may include medical personnel and other essential workers under Notice 2020-53	Medical personnel and other essential workers, as defined by state or local governments, may be treated as Displaced Individuals under Rev. Proc. 2014-49 and 2014-50