

Section Number	Designated Automatic Accounting Change Number	Contact Name	Telephone Number	Office
30.01	72	William E. Blanchard	(202) 317-3900	FI&P
30.02	183	Charles W. Culmer	(202) 317-6945	FI&P
31.01	73	William E. Blanchard	(202) 317-3900	FI&P
32.01	74	William E. Blanchard	(202) 317-3900	FI&P
32.02	75	William E. Blanchard	(202) 317-3900	FI&P

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability

(Also: Part I, § 42; § 1.42-14.)

Rev. Proc. 2019-45

SECTION 1. PURPOSE

This revenue procedure provides guidance to qualified states regarding how to request an allocation of unused housing credit carryover under § 42(h)(3)(D)(iii) of the Internal Revenue Code (Code). This revenue procedure modifies and supersedes Rev. Proc. 92-31, 1992-1 C.B. 775.

SECTION 2. CHANGES

Rev. Proc. 92-31 required a request for an allocation of unused housing credit carryover to be made by mailing a hard copy of the request to the Internal Revenue Service (Service). This revenue procedure instead requires allocation requests to be made electronically.

SECTION 3. BACKGROUND

.01 Section 42(h)(3)(D)(i) provides generally that the unused housing credit carryover of a state for any calendar year shall be assigned to the Secretary of the Treasury or his delegate (Secretary) for allocation among qualified states for the succeeding calendar year. The allocation of credits to qualified states is to be made from a national pool of unused credit authority (National Pool) consisting of all of the unused housing credit carryovers assigned to the Secretary.

.02 Section 42(h)(3)(D)(ii) provides that the unused housing credit carryover of a state for any calendar year is the excess (if any) of—

(I) the unused state housing credit ceiling for the preceding calendar year (as referenced in § 42(h)(3)(C)(i) and defined in the flush language of § 42(h)(3)(C)); over

(II) the aggregate housing credit dollar amount allocated for the calendar year.

.03 Section 42(h)(3)(D)(iv) provides generally that the term “qualified state” means, with respect to the current calendar year, any state that has allocated its entire state housing credit ceiling for the preceding calendar year and for which a request is made (not later than May 1 of the current calendar year) to receive an allocation of credit from the National Pool for the current calendar year.

.04 Section 42(h)(3)(D)(iii) describes the formula for allocation of unused housing credit carryovers from the National Pool to qualified states. The amount to be allocated to a qualified state for any calendar year must bear the same ratio to the aggregate unused housing credit carryovers of all states for the preceding calendar year as that state’s population for the calendar year bears to the population of all qualified states for the calendar year. A state’s population, for this purpose, is determined in accordance with § 146(j) of the Code.

.05 Section 146(j) provides generally that determinations of the population of any state are made with respect to any calendar year on the basis of the most recent census estimate of the resident population of that state released by the Bureau of the Census before the beginning of that calendar year.

.06 Section 1.42-1T(b) of the Temporary Income Tax Regulations provides that a state’s population for any calendar year is determined by reference to the most recent census estimate of the resident population of the state released by the Bureau of the Census before the beginning of the calendar year for which the state’s housing credit ceiling is set.

.07 Section 42(l)(3) provides that each state or local housing credit agency (Agency) that allocates a housing credit dollar amount to any building for any calendar year shall submit to the Secretary (at the time and in the manner as the Secretary shall prescribe) an annual report specifying the housing credit dollar amount allocated to each building for that year and sufficient information to identify each building and the taxpayer(s) associated with the building. Agencies file Form 8610, Annual Low-Income Housing Credit Agencies Report, with the Service to fulfill their obligations under § 42(l)(3).

.08 The general instructions to Form 8610 require that if a state has multiple Agencies, the Agencies must coordinate to file with the Service a single Form 8610 for the state. For each state, there is one Agency responsible for filing the Form 8610 with the Service (Filing Agency). Section 1.42-1T(d)(8)(ii) provides that this single completed Form 8610, with the appropriate attachments, must be filed not later than the 28th day of the second calendar month after the close of the calendar year in which a housing credit dollar amount was allocated.

.09 The information provided on Form 8610 is used to determine the prior calendar year’s unused housing credit car-

ryovers that are available for allocation to qualified states from the current year National Pool.

SECTION 4. SCOPE

This revenue procedure applies to the Filing Agency of any qualified state that requests an allocation of credit from the National Pool of unused housing credit carryovers.

SECTION 5. PROCEDURE— METHOD FOR REQUESTING CREDIT FROM THE NATIONAL POOL

.01 Only the Filing Agency of a qualified state may request, on behalf of that state, to receive an allocation of credit from the National Pool.

.02 Not later than May 1 of the calendar year in which the allocation is requested, the Filing Agency must attach a portable document format (pdf) copy of the request

to an email that the Filing Agency sends to the following email address:

CC.PSI.Stakeholder@irsounsel.treas.gov

The pdf-format copy of the request attached to the email must briefly explain that a request for allocation of credit from the National Pool is being made under section 42(h)(3)(D), and must be signed by an authorized official of the Filing Agency.

.03 A pdf-format copy of the state's Form 8610 (or most recently amended Form 8610) for the preceding calendar year must also be attached to the email.

.04 If there are any requests for allocations of credit from the National Pool, the Service will publish in the Internal Revenue Bulletin the amounts of unused housing credit carryovers assigned to qualified states from the National Pool for that calendar year.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 92-31 is modified and superseded.

SECTION 7. EFFECTIVE DATE

This revenue procedure is effective beginning with assignments of 2019 calendar year unused housing credit carryovers to the National Pool and 2020 calendar year requests on behalf of qualified states for allocations of credit from the National Pool.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is YoungNa Lee of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure contact Ms. Lee on (202) 317-4137 (not a toll-free number).

Section 42.—Low-Income Housing Credit

26 CFR 1.42-14. Allocation rules for post-2000 State housing credit ceiling amounts. Guidance is provided to qualified states that request an allocation of unused housing credit carryover under section 42(h)(3)(D) of the Internal Revenue Code. See Rev. Proc. 2019-45.