



September 8, 2020

Internal Revenue Service  
Attn: CC:PA:LPD:PR (Reg-123027-19)  
Room 5203  
P.O. Box 7604  
Ben Franklin Station  
Washington, D.C. 20044

**RE: Comments on Reg-123027-19 Regarding Low Income Housing Tax Credit Compliance Monitoring Regulations**

To Whom It May Concern:

The National Council of State Housing Agencies (NCSHA) appreciates the opportunity to provide comments on the Internal Revenue Service (IRS) notice of proposed rulemaking to modify the Low Income Housing Tax Credit (Housing Credit) regulations at Section 1.42-5 related to the minimum sample size of units necessary for monitoring project compliance with program rules.

NCSHA represents the nation's state Housing Credit allocating agencies, as well as the allocating agencies of the District of Columbia, New York City, Puerto Rico, the U.S. Virgin Islands, Guam, and Northern Marianas Islands.<sup>1</sup> NCSHA and our allocating agency members deeply value our longstanding partnership with IRS in the administration of the Housing Credit program.

NCSHA strongly supports the IRS's proposal to set minimum sample size requirements for compliance monitoring at the lesser of 20 percent of the low-income units in the housing project or the designated sample size provided in the Low-Income Housing Credit Minimum Unit Sample Size Reference Chart. This policy is consistent with previous IRS policy under Revenue Procedure 2016-15, which had been in effect prior to the publication of final regulations published on February 26, 2019, which modified that policy and required far larger sample sizes for small properties.

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<sup>1</sup> 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.

NCSHA greatly appreciates IRS and Treasury's willingness to consider how the increased monitoring burden under the 2019 final regulation would have increased administrative costs and resulted in considerable strain not only on Housing Credit allocating agencies, but also on owners and tenants. In the proposed rule, IRS recognizes how the 2019 final regulation would have resulted in disproportionate burden on small projects, many of which are located in rural areas.

While we believe this proposed rule is a critical step in the right direction, we continue to urge IRS to allow states to treat multiple building projects with a common owner and plan of financing as a single project for purposes of compliance monitoring, regardless of the owner's 8b election on Form 8609 Part II.

We also urge IRS to reconsider the reduction in the reasonable notice period that agencies must give owners before an upcoming physical inspection or review of low-income certification. The 2019 final rule reduced the reasonable notice period from 30 days to 15 days. As we have noted in previous correspondence, we do not believe 15 days allows sufficient time for state agencies, owners, or managers to prepare for an inspection.

While NCSHA maintains that IRS should address these two issues, we applaud the Service and Treasury for the action they took to address our concerns about the minimum sample size. Thank you for this opportunity to provide comments on the proposed rule. Please do not hesitate to contact me with any questions.

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