



October 15, 2021

Mr. Michael Novey  
Associate Tax Legislative Counsel  
Office of Tax Policy  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Dear Mr. Novey:

Thank you very much for your time to discuss NCSHA's request for the Internal Revenue Service (IRS) and U.S. Department of the Treasury (Treasury) to extend certain temporary relief provisions in IRS Notice 2021-12 in light of the continuing disruption the COVID-19 pandemic is having on development and construction activities and the ongoing operations of Housing Credit properties.

Given the September 30 expiration of several provisions in Notice 2021-12, we appreciate your timely consideration of our comments and, as requested, offer further clarification of several proposals from our original letter (attached) and illustrative examples.

NCSHA proposal for 10% test deadline: Extend the carryover allocation 10 percent test deadline as required in IRC Section 42(h)(1)(E)(ii) by 12 months for projects with allocation on or before December 31, 2022. The 12-month extension should begin at the current deadline; thus, properties that already had an extension under IRS Notice 2021-12 would have a further extension for 12 additional months. The deadline extension should be applied to any properties that had and missed a 10 percent test deadline on or since September 30, 2021.

- Example 1: Property A received an allocation of Credits on August 1, 2020, and its 10 percent test deadline was originally August 1, 2021. IRS Notice 2021-12 extended its 10 percent test deadline to September 30, 2021. **NCSHA recommends that property A's new 10 percent test deadline should be September 30, 2022.**
- Example 2: Property B received an allocation of Credits on October 31, 2020, and its 10 percent test deadline is October 31, 2021. IRS Notice 2021-12 is not applicable to Property B. **NCSHA recommends that property B's new 10 percent test deadline should be October 31, 2022.**

NCSHA proposal for rehabilitation expenditure deadline: Extend the rehabilitation expenditure deadline as required in IRC Section 42(e)(3) and 42(e)(4) by 12 months for projects with allocations on or before December 31, 2022. The 12-month extension should begin at the current deadline; thus, properties that already had an extension under IRS Notice 2021-12 would have an extension for 12 additional months.

- Example 1: Property A received an allocation of Credits on August 1, 2019 and its rehabilitation expenditure deadline was originally August 1, 2021. IRS Notice 2021-12 extended its rehabilitation expenditure deadline to September 30, 2021. **NCSHA recommends that property A's new rehabilitation expenditure deadline should be September 30, 2022.**
- Example 2: Property B received an allocation of Credits on October 31, 2019 and its rehabilitation expenditure deadline is October 31, 2021. IRS Notice 2021-12 is not applicable to Property B. **NCSHA recommends that property B's new rehabilitation expenditure deadline should be October 31, 2022.**

NCSHA proposal for placed in service deadline: Extend the placed in service deadline as required in IRC Section 42(h)(1)(E)(i) by 12 months for all developments allocated Housing Credits in calendar years 2018-2022. The 12-month extension should begin at the current deadline; thus, properties that already had an extension under IRS Notice 2021-12 would have a further extension for 12 additional months.

- Example 1: Property A received an allocation of Credits in 2018 and its placed in service deadline was originally December 31, 2020. IRS Notice 2021-12 extended its placed in service deadline to December 31, 2021. **NCSHA recommends that property A's new rehabilitation expenditure deadline should be December 31, 2022.**
- Example 2: Property B received an allocation of Credits in 2020 and its placed in service deadline is December 31, 2022. IRS Notice 2021-12 is not applicable to Property B. **NCSHA recommends that property B's new placed in service deadline should be December 31, 2023.**

NCSHA's proposal for properties experiencing a casualty loss: Extend the rehabilitation period by 12 months for all properties suffering a casualty loss. The 12-month extension should begin at the current deadline, and be applicable to properties suffering a casualty loss on or before December 31, 2022, regardless of whether the casualty loss was related to a Major Disaster. The deadline extension should be applied to any properties that had and missed a restoration deadline extended under Notice 2021-12.

- Example 1: Property A suffered a casualty loss due to a major disaster on December 1, 2019. The state provided the owner a reasonable restoration period of 8 months as allowed under the authority provided to the state by Rev. Proc. 2014-49, thus the original

restoration deadline was August 1, 2020. Notice 2021-12 allowed extension of the original deadline to August 1, 2021. **NCSHA recommends that the state be able to further extend property A's restoration deadline up to August 1, 2022.**

- Example 2: Property B will suffer a casualty loss related to a Major Disaster on August 1, 2022. **NCSHA recommends that the state be able to extend property B's restoration deadline up to September 1, 2025 (12 months beyond what would have been allowed under Rev. Proc. 2014-49 or 2014-50 without further IRS/Treasury action).**
- Example 3: Property C suffered a casualty loss not related to a Major Disaster on December 1, 2020. The restoration deadline would have been December 31, 2020; however, because of Notice 2021-12, the state was able to extend the restoration deadline to December 31, 2021. **NCSHA recommends that state be able to further extend property C's new restoration deadline up to December 31, 2022.**
- Example 4: Property D will suffer a casualty loss not related to a Major Disaster on August 1, 2022. **NCSHA recommends that the state be able to extend property D's restoration deadline up to December 31, 2023 (12 months beyond what would have been the deadline without IRS/Treasury action).**

We appreciate IRS and Treasury's attention to these critical extensions. Please let me know if we can provide additional information to expedite this guidance.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Schwartz". The signature is written in a cursive, flowing style.

Jennifer Schwartz  
Director of Tax and Housing Advocacy