

# Managing LIHTC Compliance

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## Acquisition/Rehab Basics

**The Goal of this Training**

The purpose of this course is to provide information for all interested personnel to successfully provide housing undergoing acquisition/rehabs in compliance with the Low Income Housing Tax Credit Program

**Where We Get Direction**

A key to references used in this manual

**1. Legal Authority**

- Section 42, Internal Revenue Code (IRC).**  
*Additional Formal/IRS Guidance:*
- Treasury Regulations**
- Revenue Rulings**
- Revenue Procedures**
- IRS Notices**

Abbreviation (and format) used in the references:

- § 42**
- Reg 1.42 ( -1 to -17)**
- Rev Rul (yr - #)**
- Rev Proc (yr - #)**
- IRS Notice (yr-#)**

**2. Additional interpretive resources:**

- 8823 Guide (rev 2011)**  
Now available online at [www.irs.gov](http://www.irs.gov)
- IRS Newsletters**  
(provide further guidance)
- Private Letter Rulings**  
(cannot be cited as precedent)
- HUD 4350.3**

- 8823 Guide (chapter-page #)**
- IRS Newsletter (#)**
- PLR (#)**
- 4350.3 (paragraph/page#)**

**Other Symbols Used in this Manual**



*On July 30th, 2008, the president signed into law **H.R. 3221, The Housing and Economic Recovery Act (called by HUD "HERA")**. This bill contained substantial revisions to the LIHTC program. Most of these changes apply going forward, so the former rules will apply to currently existing properties. We will indicate these changes [as well as the related effective dates] with italicized paragraphs and the icon to the left of this paragraph.*

**States Differ...**

This symbol indicates areas where state interpretations of Section 42 tend to differ or where states commonly impose stricter policies.



**Key IRS tax forms are discussed near this symbol**

**Project Details**

**Overview: Important Project Details**

- |                            |                              |
|----------------------------|------------------------------|
| 1. Placed in Service Dates | 4. Available Unit Rule       |
| 2. When Credits Begin      | 5. Adding Units after Year 1 |
| 3. Deferred Credits        | 6. Minimum Set-Aside         |

**Acquisition Credits & Rehab Credits**



**§ 42 (e)(4)**

An owner cannot claim acquisition credits without rehab credits; rehab credits can be claimed without acquisition, however. Acquisition and rehab are two separate credit streams; they are literally calculated as if there were two separate buildings. Each credit will have its own credit percentage:

- Acquisition credits can only ever be 4% credits.
- Rehab credits will be 4 or 9%, depending on funding.



**A Key IRS Form**

**IRS Form 8609**

This form represents the *official allocation of credits* from the state HFA for each building. The state HFA completes the top portion and sends to the owner. The owner completes the bottom portion and submits it with first year tax returns.

The 8609 is now only *submitted once*, not annually (**Rev Proc. 2005-37**).

**Lines on the form of interest:**

- Line 7** tells us the eligible basis.
- Line 8a** tells us the qualified basis.
- Line 8b** indicates if the building is part of a multi-building project.
- Line 10c** tells us the minimum set-aside.

**Note: for Acquisition/rehabs there will be two 8609s for each BIN. One for the acquisition credits and one for the rehab.**

**Placed in Service Dates**

**§ 42 (e)(3)(A)  
IRS Notice 88-116**

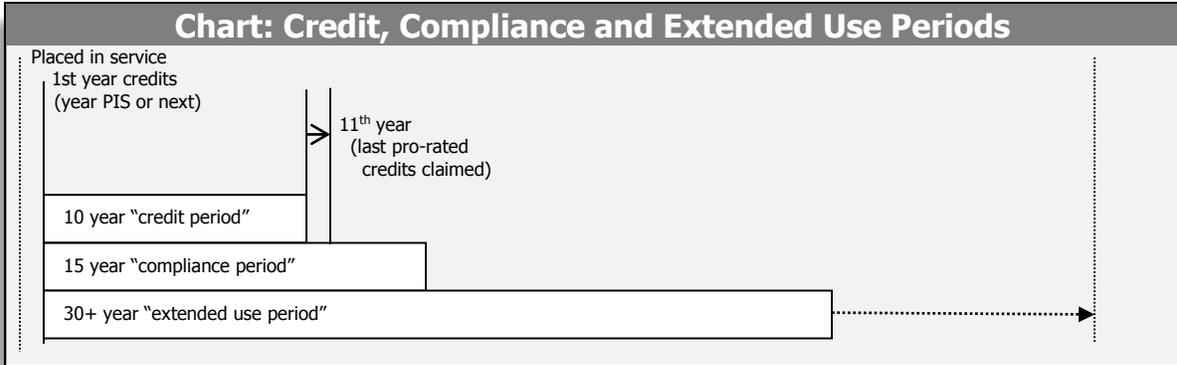
Placed in Service (PIS) dates in acquisition/rehab are based on:

- **Acquisition:** PIS is the date of purchase. Acquisition credits may actually start as early as the date the building is acquired (placed in service), but must start the same year as the rehab credits do. If rehab credits are placed in service in a later year, the acquisition credits are deferred.
- **Rehab:** PIS is based on an expenditure tests. The owner selects a time over a 24-month period when *at least* the greater of 20% of the adjusted basis or the federal/state per unit minimum is spent. A sufficient eligible basis must have also been achieved.

**Starting with the First Year Credits are Claimed...**

Once lease-up is complete and credits have been claimed, three separate periods all begin at the same time:

1. The "credit" period
2. The "compliance" period
3. The "extended use" period



**When Credits Begin**

Rehab placed in service date is only important to determine what year the credits start.

1. If the rehab is placed in service and completed the year of acquisition, the first year of the credit period will be the year of acquisition. The first year prorated applicable fraction will begin the first full month after the acquisition.
2. If the rehab is placed in service the following year, acquisition credits will be deferred, and both acquisition and rehab credits will generally begin at the start of the year that the rehab is PIS.

**Examples:**

1. A building was acquired 10/16/2011 and the rehab was PIS 03/15/2012. Both credits may begin on 01/01/2012.
2. A building was acquired on 03/01/2011. The rehab was PIS 12/13/2011. Both credits may begin on 03/01/2011.



1. A building was acquired 01/01/2010 and the rehab was PIS 12/30/2011. Both credits may begin on
2. A building was acquired 05/01/2011. The rehab was PIS 09/13/2011. Both credits may begin on
3. A building was acquired on 01/01/2011. The rehab was PIS 12/13/11. Both credits may begin on
4. A building was acquired on 06/01/2011. The rehab was PIS 06/13/12. Both credits may begin on

**Deferred Credits**

**Rev Proc 2003-82      8823 Guide 4-28 & 29**

Credits may be claimed the year the property is placed in service, or the start of the credits may be *deferred* until the following year, allowing a higher applicable fraction to be met. The year that credits are first claimed becomes the *first year of the credit period*.

**When an owner may choose to defer:**

A building has a target goal of 100% LIHTC units. It is placed in service on October 2<sup>nd</sup>, 2010. By the end of the year, 53 of the 100 units (all the same size) have been qualified. The owner must choose either to claim credits in 2010 (settling for 53%) or deferring to 2011, hoping to get to the 100% by the end of that year. Whatever the case, by the end of the second year, credits will have to begin.

**When an owner is not likely to defer:**

A 75 unit building has a target 100% LIHTC. The building is placed in service on 04/05/2011. By 12/31/2011, all 75 units have been qualified. Since the target has been met by the end of the first year that the building was placed in service there is no need to defer credits to the following year, all credits would probably be claimed in 2011.

If acquisition credits are deferred because the rehab is not PIS that year, then both acquisition and rehab credits will begin at the start of the year that the rehab is PIS. Any tenant qualified up through January 31<sup>st</sup> of that year starts credits for their unit for that entire year.

**Income Test****Rev. Proc. 2003-82 8823 Guide (rev 10-09) 4-26**

When credits are deferred, units qualified on or after PIS, but before the start of the credit period and who are still in place at the start of the credit period will not need to re-qualify for credits. If they have been in the property more than 120 days before the start of the first year, an "income test" may need to be run on in-place households at the beginning of the first credit year. The income test is a self-certification that income has or has not changed since initial qualification. If there have been changes, household will provide supporting documentation to allow for new calculations. The household's eligibility is not in question, but the "Available Unit Rule" may come into effect.

**Workshop:  
Income Test**

A 10 unit building is acquired on 02/15/2010. The rehab is placed in service on 10/20/2010. The target applicable fraction is 80%. As of 12/31/2010 6 of the 10 units are qualified. In order to reach the 80% applicable fraction, the owner defers credits to the following year. Management must now determine which household must have an "Income Test" completed. Below is a listing of the date that each household qualified the unit. Circle which of the following unit's must have an income test completed:

- |  |  |
|--|--|
| <b>A.</b> Unit 101 qualified on 01/13/2010 | <b>D.</b> Unit 104 qualified on 09/01/2010 |
| <b>B.</b> Unit 102 qualified on 08/25/2010 | <b>E.</b> Unit 105 qualified on 11/02/2010 |
| <b>C.</b> Unit 103 qualified on 09/13/2010 |  |

**Available Unit Rule "AUR"**

**§ 42 (g)(2)(D) & IRS Reg 1.42-15**

This rule is also called the 140% or "next available unit" (NAUR) rule.

**8823 Guide 14-1 & 5**

1. **For 100% LIHTC projects:** owners must demonstrate due diligence when moving in new households to make sure that all units that become available are rented to qualified households. If they move in an ineligible household and cannot demonstrate due diligence, they violate the available unit rule.
2. **For "mixed income" projects:** If household income increases to over 140% of the current qualifying income limit when they are rectified, they become "over-income". Credits can continue to be claimed on the unit as long as the next available unit (of equal or smaller size) **in the same building** is rented to a qualified applicant. The goal is to restore the applicable fraction, not counting the over-income household. Over-income units must remain rent restricted until the next available unit(s) are rented. If the rule is violated, all comparable or smaller 140% units fall out of the applicable fraction & minimum set-aside. A Unit is no longer "available" if a legally binding agreement is in place.

**Adding LIHTC units after Year 1**

**§ 42 (f)(3)**

When additional LIHTC units are added after the first year credits are claimed, there is a 2/3rds adjustment made to the credit percentage for credits, and they must be claimed over 15 years for the additional units. The credits for these units are worth considerably less than full credits.

**Example:**

**A building is acquired on March 2<sup>nd</sup>, 2010.**

An in-place household qualified on March 2<sup>nd</sup> 2010.

(Credits can only be claimed the first full month in service)

If credits are claimed in 2010, credits will start for that unit in what month?

If credits are deferred, they will begin in what month?

- Will the household be subject to an income test at the start of 2010?
- If they are over the income limit in December, they will have to move out. **True** or **False**

**Minimum Set Aside**

**8823 Guide Chapter 10**

Every LIHTC property has a minimum set-aside. There are 3 options:

- |  |  |
|--|--|
| <ol style="list-style-type: none"> <li>1. 20-50</li> <li>2. 40-60</li> </ol> | <ol style="list-style-type: none"> <li>3. 25-60 – This set-aside applies to New York City only.</li> </ol> |
|--|--|

The minimum set-aside establishes two things:

1. What % units (**minimum**) must be LIHTC AT ALL TIMES (20% or 40%). This is always figured on the number of units, regardless of the size of each unit. The test for this is on the last day of each year.
2. The definition of "low income" at the property (50% or 60% MTSP). All units that will be counted as LIHTC in the property must be at or below this limit.

***The minimum set-aside is irrevocably selected on IRS Form 8609 line 10(c).***

The owner has until the end of the year PIS or to the end of next taxable year to meet **the Minimum Set-Aside** and start claiming credits.

**VITAL Note about the Minimum Set-Aside:****Instructions to IRS Form 8823**

"If the property fails to meet the minimum set-aside by the deadline, no credits can ever be claimed. SUBSEQUENT violations of the set-aside results in recapture of all previously claimed credits and credits cannot be claimed until set-aside is met again."

During a rent-up, fill each unit once first! Fill "empty" (never been qualified) units before "vacant" unit.

The Minimum set aside can be met on a project basis (as defined by the 8609s).

**MSA and Multi-BIN Election Example:**

Three BINs with 33 Units each for a total of 99 Units with a 40/60 MSA.

- If multi BIN: 40 units must be LIHTC to meet the MSA  
 **$99 \times 40\% = 39.6$  rounded up to 40**
- If not mult-BIN: 42 units must be LIHTC to meet the MSA  
 **$(33 \times 40\% = 13.2$  rounded up to 14) x 3**

**Qualifying Households**

**Overview: Important Project Details**

- |                             |                              |
|-----------------------------|------------------------------|
| 1. Certification Processing | 4. Transfers                 |
| 2. Applicable Fraction      | 5. Re-syndication            |
| 3. The 1 <sup>st</sup> Year | 6. Federally Funded Projects |

**Revenue Ruling 2004-82 (12 questions) Question 8  
8823 Guide Chapter 4 pages 16-20**

**Certification Processing**

Both acquisition and rehab credits are satisfied with **one set of certification paperwork** and may be claimed going back to acquisition PIS for tenants who are in place at acquisition.

Income certifications for households who are in-place on the date of acquisition that are completed within 120 days *before or after* the date of acquisition may be effective as of the acquisition date. Certifications completed after the 120 days are effective the date the last adult signs the certification.

Even if credits are not going to be claimed the year of acquisition (see *When Credits are Claimed*, above), getting the certifications done at acquisition accomplishes two important things:

1. Households can be determined to be qualified at acquisition and are protected against future disqualification if their income increases.
2. Over-income households can be given more time to develop a relocation plan.

**Effective Dates for Tenants In-place at Acquisition date**

<b>If certified:</b>	<b>Effective date is:</b>	<b>The Income limits to use are:</b>
<input type="checkbox"/> 120 <i>before or after</i> acquisition	the acquisition date	limits on acquisition date
<input type="checkbox"/> after 120 days	the date the TIC is signed	limits as of signature date



**Workshop:  
Effective Dates**

A building is acquired on 06/05/2011. The rehab is placed in service on 12/15/2011.

Based on this information, complete the effective dates for the household below:

- A.** An *existing* household is qualified and the TIC is signed on 04/01/2011.  
What is the effective date of the TIC?
- B.** A *new* household was qualified. The TIC is signed, and the move-in is 06/07/2011.  
What is the effective date of the TIC?
- C.** An *existing* household is qualified and the TIC is signed on 07/09/2011.  
What is the effective date of the TIC?
- D.** An *existing* household is qualified and TIC is signed on 12/11/2011.  
What is the effective date of the TIC?
- E.** A *new* household was qualified. TIC signed, and moved in on 12/06/2011.  
What is the effective date of the TIC?

**Applicable Fraction**

*...or "the percentage of the units are LIHTC"*  
**§ 42 (c)(1)(B)-(D)**

Once we know how much money we have spent on the acquisition and the rehab (the *eligible bases*), we must determine how much of that money is going to provide housing to low-income residents (the *qualified bases*).

The *applicable fraction* is the fraction of the **residential units** that house tax credit households calculated as the **LOWER** of:

The number of residential rental units **OR** the square footage of the residential rental units.

The fraction is figured as follows:

$$\frac{\text{The total LIHTC portion of the building}}{\text{The total residential rental portion of the building}}$$

Notes:

- Common (non-residential) area is excluded from this calculation.
- Except for the 1<sup>st</sup> and 11<sup>th</sup> year credits are claimed, the applicable fraction is based on the units in compliance as of the **last day of the year**.

**Model Units**

Model units are generally utilized during a project’s lease-up period to show prospective tenants the amenities of the project’s units. A model unit can be included in the eligible basis and included in the denominator of the building’s applicable fraction, it cannot, however, be included in the numerator of the applicable fraction unless rented to a low-income household.

**8823 Guide 4-13**

*The IRS has clarified that a tenant may run a business out of a unit, as long as it remains their "primary residence".*

**Employee Units**

**IRS Rev. Rul. 92-61 and 04-82    IRS Newsletter #14**

Full time employees to the property (as defined by the needs of the property) who otherwise do not qualify may occupy LIHTC units. In addition to managers, this can also apply to maintenance and security staff.

The unit IS included in the eligible basis, but it is EXCLUDED from both parts of the applicable fraction. It is sometimes referred to as being treated as **common area**. Rent should not be charged for an employee unit.

**Caution: employee units work best at 100% LIHTC.** Converting at a mixed income property with different sized units may work, but watch the applicable fraction carefully.

**Supplemental Example: Converting a unit in a mixed-income building**

- A building has 2 - 500 Sq. Ft. and 1 - 1000 Sq. Ft. LIHTC units
- It also has 1- 1000 Sq. Ft. Market unit
- The Applicable Fraction is 66.67% (using the square footage calculation: 2000 / 3000)
- If the larger LIHTC unit is converted to employee unit:
- The Applicable Fraction would become 50% (1000 / 2000)
- **This would represent a qualified basis violation**



There are 10 units total in the building:

- 5 of the units are 1 bedroom (800 sq. ft. each) & 5 units are 2 bedroom (1,200 sq. ft. each)
- LIHTC units: One 2-bedroom and all five 1 bedroom units

$$\frac{\# \text{ of LIHTC units}}{\text{Total \# of building units}} = \frac{\quad}{\quad} = .\quad$$

$$\frac{\text{LIHTC sq. ft.}}{\text{Total buildingsq. ft.}} = \frac{\quad}{\quad} = .\quad$$

App Fraction = . (to four decimals)

LIHTC	1,200sq'	LIHTC	800sq'
Market	1,200sq'	LIHTC	800sq'
Market	1,200sq'	LIHTC	800sq'
Market	1,200sq'	LIHTC	800sq'
Market	1,200sq'	LIHTC	800sq'

**The First Year**

**§ 42 (f)(2)(A) and (B)**

For Years 2-15, the applicable fraction reached by the end of Year 1 should remain constant. When the Year 1 credits are claimed, however, they are **pro-rated**. The pro-ration calculation is based on an average of the applicable fractions at the **end of each month**, starting the first **full** month that the building is in service.

Example: A building is PIS March 15<sup>th</sup>. Credits will be claimed starting in April and we will calculate the applicable fraction as of April 30<sup>th</sup> and every month-end thereafter.

**The remainder of the pro-rated credits from Year 1 are claimed in Year 11.**

**Supplemental Lesson: Quick Fraction/Decimal/Percentage Math**

**Fractions, Percentages & Decimals Basics**



A fraction has a numerator (top of the fraction) and a denominator (bottom). To convert a fraction to a decimal, divide the top by the bottom.

**Example:** the fraction  $\frac{87}{92}$  is the same as:  $87 \div 92$ , which equals **.9457**

**Converting a Decimal to a Percentage**

If you want to express your decimal answer as a percentage, you will move the decimal point *two places to the right*.

**Example: .9457 is 94.57%**



**Workshop:  
Year 1**

For a 4-unit Building (all units are the same size) which was placed in service Mar 30th, 2013

- Unit #1 was rented to a LIHTC-qualified household on Mar 10
- Unit #2 was rented to a LIHTC-qualified household on Apr 30
- Unit #3 was rented to a LIHTC-qualified household on May 15
- Unit #4 was rented to a LIHTC-qualified household on Jul 7

First months credits claimed

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totals	

=

Portion of year 1 credits claimed year **1** %

Portion of year 1 credits claimed year **11** %

**1<sup>st</sup> Year Pro-rates in Acquisition Rehab – Differing unit sizes**

<b>PIS 7-1-13</b>															
Unit	Date Occupied	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
101	7/1/2013							500	500	500	500	500	500		
102	7/1/2013							500	500	500	500	500	500		
103	7/1/2013							500	500	500	500	500	500		
104	7/1/2013							500	500	500	500	500	500		
105	7/30/2013							500	500	500	500	500	500		
106	7/30/2013							1000	1000	1000	1000	1000	1000		
107	8/30/2013								1000	1000	1000	1000	1000		
108	8/30/2013								1000	1000	1000	1000	1000		
109	8/30/2013								1000	1000	1000	1000	1000		
110	8/30/2013								1000	1000	1000	1000	1000		
111	9/15/2013									500	500	500	500		
112	9/15/2013									500	500	500	500		
113	9/15/2013									500	500	500	500		
114	9/15/2013									500	500	500	500		
115	9/15/2013									500	500	500	500		
116	9/15/2013									1000	1000	1000	1000		
117	9/30/2013									1000	1000	1000	1000		
118	10/15/2013										1000	1000	1000		
119	10/30/2013										1000	1000	1000		
120	10/30/2013										1000	1000	1000		
121	10/30/2013										500	500	500		
122	10/30/2013										500	500	500		
123	11/30/2013											500	500		
124	11/30/2013											500	500		
125	12/31/2013												500		
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
		0	0	0	0	0	0	6	10	17	22	24	25	104	
AF Based on Units		25	25	25	25	25	25	25	25	25	25	25	25	300	<b>34.67%</b>
							0.00%	24.00%	40.00%	68.00%	88.00%	96.00%	100.00%	416.00%	0.3466667
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
		0	0	0	0	0	0	3506	7500	12000	16000	17000	17500	73506	
AF Based on Sq. ft		17500	17500	17500	17500	17500	17500	17500	17500	17500	17500	17500	17500	210000	<b>35.00%</b>
							0.00%	20.03%	42.86%	68.57%	91.43%	97.14%	100.00%	420.03%	0.3500286

**Transfers**

**PLR 200044020**

**IRS Reg 1.42-15 (d) 8823 Guide 4-24**

Transfers within a building are acceptable and the units simply switch status. According to the IRS, transfers are allowable for households between buildings WITHIN A PROJECT without recertification if the household was below 140% of the income limits at their most recent certification. This MAY be acceptable to a state. It is important to check with the state monitor for their policy.

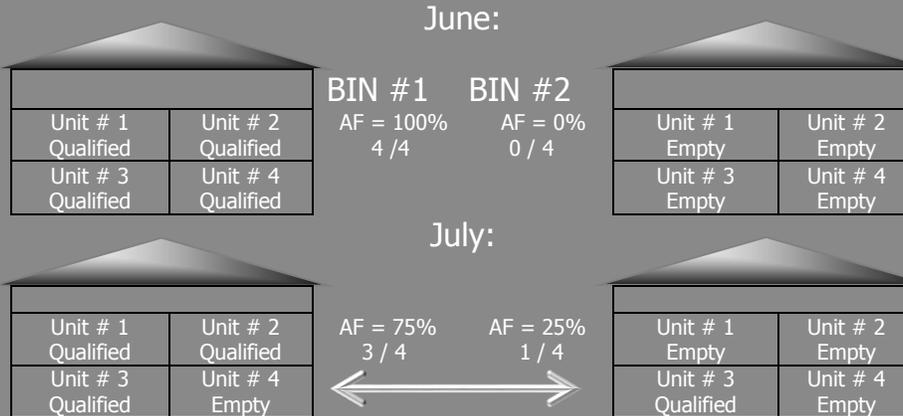
**8609 Part II 8 b**

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
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A household, however, can never initially qualify more than one unit at a time. When they transfer, the unit they were in and the unit they go to switch status. If they transfer from a unit that they initially qualified to a never qualified unit, the unit they move to is now qualified, but the unit they leave becomes never qualified starting the date of transfer. The pro-rated first year applicable fraction is calculated accordingly.

**Example: Transfer within a Project**

Two buildings are part of a multi-building project, per the 8609s. Building # 1 was 100% LIHTC in June. The applicable fraction is 4/4, or 100%. The second building has been rehabbed and when they begin to lease up the second building, the household in unit #4 transfers from the first building into the second. No additional households move into either building in July. For July, the applicable fraction is now 75% in the first building and 25% in the second.



When a qualified household transfers units, their LIHTC status transfers with them. The units simply swap status.



**States Differ...on unit transfers**

When any transfers occur (within a building or a project), the IRS indicates that a recertification is not necessary, and will be due for the household at the next anniversary of their entry to the project. However, some states more restrictively require recertification at transfer and that becomes the new anniversary date.

Some states are still applying a formerly common policy of treating transfers between buildings as move-outs and new move-ins. In these states, a household must qualify to transfer by being at or below the current income limits. VERY IMPORTANT: If this policy is in effect, owners planning acquisition/rehab projects will need to establish how the certification process works for an acquisition/rehab project where there will be transfers between buildings while the rehab is in process. Tenants who qualify at acquisition may not qualify when it is time for them to move. How will the owner avoid evicting these households and still satisfy state requirements?

For those states that allow transfers between buildings, some are requiring a full recertification at the time of transfer before the household is allowed to move to prove that they are below the 140% limit. Others accept the 8823 Guide interpretation and simply rely on the most recent recertification to establish that the household is below the 140% limit. My state's unit transfer rules:

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References:  State compliance manual page: \_\_\_\_\_  State internet page: \_\_\_\_\_  
 Email or letter from state agency: Location of copy: \_\_\_\_\_  
 Conversation with state agency personnel name: \_\_\_\_\_  
 Contact information: \_\_\_\_\_  
 Time and date of conversation: \_\_\_\_\_ Was written follow-up obtained? Yes No  
 If "yes", location of documentation: \_\_\_\_\_



**Timing - Can a day make a difference?**

Dates play an important role in all aspects of determining the amount of credit that the owner will be eligible to claim in year 1. Simply moving a few dates can increase the percentage of the credits claimed in year one.

**Scenario #1**

Acquisition date 3/2/2012 – Owner is electing to treat these building as part of a multiple building project as defined by the IRS 8609 8 b.

**Building A**

<p>101:</p> <ul style="list-style-type: none"> <li>A. Smith, existing tenant</li> <li>Certified in unit #101 on 7/18/2012</li> <li>A. Smith Transferred to #203(a rehabbed unit) on 8/28/2012</li> <li>Rehab on 101 began 8/30/12 ,</li> <li>completed 9/28/2012.</li> <li>New tenant, B. Jones, is certified and moved in on 10/10/12</li> </ul>	<p>102:</p> <ul style="list-style-type: none"> <li>C. Miller, existing tenant</li> <li>Certified in unit #102 on 7/28/12.</li> <li>C. Miller transferred to # 202 (not rehabbed) on 9/16/12</li> <li>Rehab began on # 102 on 9/17/12, completed 10/24/2012</li> <li>On 11/1/2012, C. Miller transfers back to unit #102.</li> </ul>	<ul style="list-style-type: none"> <li>103: D. Butler ,existing tenant,</li> <li>Certified on 8/2/2012</li> <li>Transferred to unit 201 ( not rehabbed) On 9/25/2012</li> <li>Rehab began on # 103 on 9/27/2012, completed 10/26/12</li> <li>D. Butler transferred back to #103 on 11 /1/2012</li> </ul>
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**Did not use 120 day window in BIN A**

**BUILDING B**

<p>201:</p> <ul style="list-style-type: none"> <li>Existing tenant was not income eligible and moved out on 7/30/12</li> <li>D. Butler transferred from unit #103 to unit #201 on 9/25/2013</li> <li>D. Butler transfers from #201 to #103 11/1/2012</li> <li>Rehab began on 11/5/12, completed 12/15/12</li> </ul>	<p>202:</p> <ul style="list-style-type: none"> <li>Existing tenant was not income eligible and moved out on 9/1/2012</li> <li>C. Miller transferred from #102 to #202 On 9/16/2012</li> <li>C. Miller transferred back to unit #102 on 11/1/2012</li> <li>Rehab begins 11/2/2012,</li> </ul>	<p>203:</p> <ul style="list-style-type: none"> <li>Unit 203 was vacant at the time of acquisition.</li> <li>Rehab began 6/28/12, completed 7/29/12.</li> <li>A. Smith Transfers from # 102 to #203 on 8/28/2012</li> </ul>
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**Move-in date the 1<sup>st</sup> day of the month after units were rehabbed in BIN B**

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
101							A. Smith			B. Jones	B. Jones	B. Jones		
102							C. Miller	C. Miller			C. Miller	C. Miller		
103								D. Butler			D. Butler	D. Butler		
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
	0	0	0	0	0	0	2	2	0	1	3	3	11	
	3	3	3	3	3	3	3	3	3	3	3	3	36	30.56%
							66.67%	66.67%	0.00%	33.33%	100.00%	100.00%	366.67%	0.305556

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
201									D. Butler	D. Butler		E. Wilson			
202									C. Miller	C. Miller		F. Harris			
203								A. Smith	A. Smith	A. Smith	A. Smith	A. Smith			
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec			
	0	0	0	0	0	0	0	1	3	3	1	3	11		
	3	3	3	3	3	3	3	3	3	3	3	3	36	30.56%	
							0.00%	0.00%	33.33%	100.00%	100.00%	33.33%	100.00%	366.67%	0.305556

**Scenario #2**

Acquisition date 3/2/2012 – Owner is electing to treat these building as part of a multiple building project as defined by the IRS 8609 8 b.

**BUILDING A**

<p><b>101:</b></p> <ul style="list-style-type: none"> <li>A. Smith, Existing tenant</li> <li>Certified in unit #101 on 3/18/2012</li> <li>A. Smith Transferred to #203(a rehabbed unit) on 8/28/2012</li> <li>Rehab on 101 began 8/30/12 , completed 9/28/2012.</li> <li>New tenant, B. Jones, is certified and moved in on 9/30/12</li> </ul>	<p><b>102:</b></p> <ul style="list-style-type: none"> <li>C. Miller, existing tenant</li> <li>Certified in unit #102 on 3/28/12.</li> <li>C. Miller transferred to # 202 (not rehabbed) On 9/16/12,</li> <li>Rehab began on # 102 on 9/17/12, completed 10/24/2012</li> <li>On 10/30/2012, C. Miller transfers back to unit #102.</li> </ul>	<ul style="list-style-type: none"> <li>103: D. Butler an Existing tenant, certified on 4/2/2012.</li> <li>Transferred to unit 201 ( not rehabbed) On 6/5/2012</li> <li>rehab began on # 103 on 6/9/2012, completed 7/26/12.</li> <li>D. Butler transferred back to #103 on 7/30/2012</li> </ul>
<p><b>Used 120 day window in BIN A</b></p>		
<p><b>BUILDING B</b></p>		
<p><b>201:</b></p> <ul style="list-style-type: none"> <li>Existing tenant was not income eligible and moved out on 5/30/12.</li> <li>D. Butler transferred from unit #103 to unit #201 on 6/05/2012</li> <li>D. Butler transfers from #201 back to #103 7/30/2012</li> <li>Rehab began on 8/5/12, completed 9/15/12</li> <li>A new tenant E. Wilson, is qualified and moved in on 10/31/2012</li> </ul>	<p><b>202:</b></p> <ul style="list-style-type: none"> <li>Existing tenant was not income eligible and moved out on 9/1/2012.</li> <li>C. Miller transferred from #102 to #202 On 9/16/2012,</li> <li>C. Miller transferred back to unit #102 on 11/1/2012</li> <li>Rehab begins 11/2/2012, completed 11/28/2012</li> <li>New tenant, F. Harris is qualified and moved in on 11/30/2012</li> </ul>	<p><b>203:</b></p> <ul style="list-style-type: none"> <li>Unit 203 was vacant at the time of acquisition.</li> <li>Rehab began 6/28/12, completed 7/29/12.</li> <li>A. Smith Transfers from # 102 to #203 on 8/28/2012</li> </ul>
<p><b>Move-in dates the last day of the months that units were rehabbed in BIN B</b></p>		

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
101				A.Smith	A.Smith	A.Smith	A.Smith		B.Jones	B.Jones	B.Jones	B.Jones	
102				C. Miller		C. Miller	C. Miller	C. Miller					
103				D. Butler	D. Butler		D. Butler						
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	0	0	0	3	3	2	3	2	1	3	3	3	23
	3	3	3	3	3	3	3	3	3	3	3	3	36
							100.00%	66.67%	33.33%	100.00%	100.00%	100.00%	500.00%
													0.416667

Unit	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
201						D. Butler				E. Wilson	E. Wilson	E. Wilson	
202									C. Miller		F. Harris	F. Harris	
203								A. Smith	A. Smith	A. Smith	A. Smith	A. Smith	
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
	0	0	0	0	0	1	0	1	2	2	3	3	12
	3	3	3	3	3	3	3	3	3	3	3	3	36
						33.33%	0.00%	33.33%	66.67%	66.67%	100.00%	100.00%	400.00%
													0.333333

**Increased 1<sup>st</sup> yr pro-rate % by 33.33% for Building A & 2.78% for Building B**



## Rehabs at Federally Funded projects

<http://www.hud.gov/relocation>

At a project-based Section 8 Property LIHTC and HUD anniversary dates may never coincide if your state HFA has adopted the 8823 Guide recert anniversary date requirements. In-place tenants may not qualify and must not be required to vacate their units. See the Relocation Act of 1970 (URA).

## When a Property Uses Tax Credits Again ("resyndication")

**8823 Guide 4-27 & 28**

*Households at a project that is being rehabbed with tax credits that were qualified previously under an initial set of credits continue to qualify without re-certification.*



*Example: a household originally qualified in 2003 for a project that had been constructed with tax credits and had a credit period that ended in 2005. The owners are re-syndicating and getting rehab credits in 2008. The household will qualify based on their initial qualification in 2003. If a recertification is required (because the project is mixed-income), and the household income has gone up since 2003, the available unit rule may be in effect.*

Suggestion: Conducting a certification at acquisition even for households qualified in the past may be required by the state agency or investors. They only use a past certification if the household is currently over the income limits. Many companies also choose to implement this policy. Some of the reasons that this may be a good idea are:

1. This results in a cleaner file with current stringent verification rules.
2. Correcting past imperfect files can be difficult.



Warning: Only income qualification is automatic for past-qualified households. Be aware that many states relax the student rules after the compliance period (the first 15 years when IRS rules are in full effect). If an owner thinks there is any chance of resyndication, the IRS student rules should continue to be applied to ensure household continued eligibility.

**Planning for Acq/Rehab**

**Planning...Overview**

Much thought must be given to how management will:

- Maximize credits
- Engage the current residents
- Certify existing households quickly
- Deal with relocation issues – on and off-site
- Manage media attention

**Planning Maximize Credits When Facing an Acq-rehab**

In order to maximize credits, it is vital that the owner and the management company know:

<b>Item</b>	<b>Why Important</b>
<b>The date of acquisition</b>	<p><b>To know when the 120-day opportunity begins.</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> If credits will be claimed going back to acquisition, then qualifying everyone to this date will result in the highest 1<sup>st</sup> year pro-rated applicable fraction and the most possible credits.</li> <li><input type="checkbox"/> If credits are going to be deferred to later year, qualifying households to the acquisition date protects them as qualified households in case their income increases in the meantime.</li> <li><input type="checkbox"/> If credits are going to be deferred and acquisition is more than 120 days before January of the 1<sup>st</sup> year of the credit period, an "income test" may be necessary to plan for.</li> </ul>
<b>The year the rehab will be placed in service</b>	<p><b>To know if the start of credits will be at acquisition or January of the later year.</b></p> <ul style="list-style-type: none"> <li><input type="checkbox"/> To know how important the 120-day opportunity is.</li> <li><input type="checkbox"/> To know if the "income test" is going to be applicable (see above).</li> </ul>
<b>The rehab schedule</b>	<p><b>To strategically target buildings to be completely occupied by qualified households.</b></p>

**Planning Engage the Current Residents**

At a minimum, the owner will need to contact each household through a letter or flyer explaining what is happening at the property and what you need from them to succeed. Focus on the positive benefits of the rehab. If you have an engagement meeting (see below), you will still need a letter to go out.

**"Engagement" Meetings**

Consider holding larger gatherings to explain the details of the acq/rehab. At this meeting the owner and/or agent can explain the changes that are coming, with a focus on the benefits of the rehab and why cooperation is vital. Paperwork should be on hand to allow all in attendance to complete and sign all appropriate questionnaires and verification forms.

<p><b>Benefits of Engagement Meetings</b></p> <ul style="list-style-type: none"> <li>• Allows paperwork to be started quickly for multiple households and "jump starts" the process.</li> <li>• Tenant questions get answered at once, instead of individually. Common questions come up over and over in individual meetings.</li> </ul>	<p><b>Challenges of Engagement Meetings</b></p> <ul style="list-style-type: none"> <li>• Several staff must be available at one time. The meeting must be very thoroughly planned.</li> <li>• At times effort is required to keep the atmosphere upbeat.</li> </ul>
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**Practical Pointers to create a positive atmosphere at meetings**

- Food and simple decorations and entertainment go a long way!!!
- Try to get applause over the rehab early in the presentation
- Keep the presentation simple and avoid making promises. Owners often have to change their plans many times during the rehab process.
- Be honest. NEVER promise that everyone will be able to stay!

**Topics to Discuss**

Whether by letter or meeting, the following topics should be discussed briefly:

- The new income limits
- LIHTC-specific student rules
- If the rehab is proposed to affect rents
- Prompt cooperation from everyone for the rehab is required for the rehab to be a success

*Practical note: a flyer explaining the basics of the tax credit program can be very useful. See the page at end of this manual.*

**Planning**

**Certify Existing Households Quickly**

Whether you have an engagement meeting or you make individual appointments, make sure that your invitation lists items to bring with them. This should include at least the most recent 4-6 paystubs, the most recent benefit letters and the most recent statements for any assets owned. This will allow you to have that paperwork on hand if the 3<sup>rd</sup>-parties will not cooperate after 2 weeks of effort to get verification forms completed.

**Sample Appointment Notice Card**

From Zeffert & Associates' Forms Package  
CUSTOMIZED FOR AND USED WITH PERMISSION OF PATRICK DEVELOPMENT

*Irving School  
Apartments*

Appointment Scheduled

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Please call 314-514-7711 if you need to reschedule this appointment.

 **Zeffert & Associates**

**Items to Bring with You**

(Bring what applies to you, not all items will apply to each household)

- Recent Social Security award letter
- Recent pension award letters
- Four most recent paycheck stubs
- Contact information for your bank, IRA, pension, whole life insurance policy holder, etc.
- Contact information for your employer(s)
- Child support case number & court papers

**Reviewing Federally Funded Properties**

If you have a property with federal assistance (such as project-based HUD Section 8 or RD section 515), check each file that has been certified recently. Look for any verifications that will still be good as of the effective date because 1) they were received no more than 120 days before the effective date or 2) they are the most current letter for fixed benefits (if allowed by LIHTC state monitor).

**Give Tenant's "Homework"**

Have a form prepared that has blanks that can be filled in with items that are determined by the interviewer to be needed after the initial appointment.

**Plan to Track**

Be well aware of which verifications have been sent out and when. Re-send if the 3<sup>rd</sup>-party has not responded every few days. If two weeks elapse, thoroughly document your efforts to get 3<sup>rd</sup>-party verification and move on to secondary documentation. Since this must be monitored closely to get the most efficient results, tracking databases, spreadsheets or software often can be very useful.

**Incentives**

Consider offering incentives to residents for quick cooperation. Gift cards or certificates off of next month's rent or \$25 are great motivators for some otherwise tardy tenants.

**Planning****Deal with relocation issues****Ineligible Households**

Know what the owner intends to do about over-income or non-eligible student households. Consider incentivized moves to conventional properties in your portfolio or developing a relationship with other apartment communities in the area of the property.

**Planning****Manage Media Attention**

In most acquisition/rehab projects, there will be media attention. It is important to be prepared to manage the flow of information and know how to handle it when things do not go well.

Many successful projects begin with a pre-emptive positive media campaign. This focuses on the benefits, while not ignoring the facts of life. The possibility of permanent relocation for some (often a requirement of ANY rehab) should not be ignored, but can be skillfully framed positively. Since it is possible that people will lose their housing, a project may gain media negative and very biased attention. Be sure that a thoroughly prepared person is appointed to address the media. All staff should refer all inquiries to that person.

**A Few Words of Encouragement...****We Do this Job Well...**

The most recent GAO reviews for the LIHTC program were positive. It is also a wise use of resources to improve existing housing stock and retain homes for many existing and new residents using acquisition/rehab provisions.

It is a challenge to learn this program well, but the more effort something takes, the more gain is realized. The LIHTC program is active in all states, and qualified personnel are in demand. Not all jobs provide a certain amount of personal security and are also beneficial to Society. We strongly feel that LIHTC-related jobs are.