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HUD Designates 2007 DDAs

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The U.S. Department of Housing and Urban Development (HUD) published a notice on September 20, 2007 designating 2007 difficult development areas (DDAs) and qualified census tracts (QCTs) for each of the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands. This notice also lists those areas treated as DDAs under the Gulf Opportunity Zone Act of 2005 (P.L. 109-135; the GO Zone Act). For the purposes of claiming the low-income housing tax credit (LIHTC), the eligible basis of buildings located in DDAs or QCTs can be increased by up to 130 percent. This means that the available credits also can be increased by up to 30 percent.

Definitions

Section 42 of the Internal Revenue Code defines a DDA as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the area median gross income (AMGI). All designated DDAs in metropolitan areas (taken together) may not contain more than 20 percent of the aggregate population of all metropolitan areas nationally, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all nonmetropolitan areas nationally. The designations of DDAs for 2007 are based on final fiscal year (FY) 2006 fair market rents (FMRs), FY 2006 income limits and 2000 Census population counts.

Significant Changes

The main change in DDAs between 2006 and 2007 is due to the Gulf Opportunity Zone Act of 2005 (GO Zone Act). Specifically, the GO Zone Act provides that areas determined by the president to warrant individual or individual and public assistance from the federal government under the Robert T. Stafford Disaster Relief and

Emergency Assistance (Stafford Act) as a result of hurricanes Katrina, Rita or Wilma shall be treated as DDAs.

DDA Changes

The 2007 DDAs are the first to follow the metropolitan area definitions revised according to 2000 Census findings. HUD based the 2007 designations on the FY 2006 fair market rents (FMRs) and very low-income limits (VLILs), which follow a modified version of the new metropolitan area definitions. Since HUD's modifications of metropolitan area definitions mitigate large changes in FMRs and income limits, the changes to the list of metropolitan DDAs between 2006 and 2007 are limited. Due to the change in metropolitan area definitions, the counts are not strictly comparable.

Overall, 62 metropolitan statistical areas (MSAs) or HUD Metro FMR areas are designated as 2007 DDAs. Five 2006 metropolitan areas will no longer be DDAs in 2007; seven metropolitan areas that are not on the 2006 list become 2007 DDAs.

A total of 406 non-metropolitan counties will be designated 2007 DDAs. There are 58 counties or New England county parts that are nonmetropolitan 2006 DDAs, but are absent from the 2007 list. Of these, 49 became parts of metropolitan areas that are not 2007 DDAs. Seventy-six non-metropolitan areas that are not 2006 DDAs are now 2007 DDAs. Three of these were formerly in metropolitan areas that were not 2006 DDAs.

QCT Changes

Overall, 10,169 QCTs are designated for 2007. This designation uses a more highly detailed tract-level household income distribution tabulation than that used to produce the 2006 list. Of the 2006 QCTs, 228 are not on

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the 2007 list. QCTs added in 2007 include 477 census tracts, creating a net addition of 249.

Effective Dates

The 2007 lists of QCTs and the 2007 lists of DDAs that are not part of the GO Zone designation are effective:

1. For allocations of credit after December 31, 2006; or
2. For allocations of bonds, for purposes of IRC Section 42(h)(4)(B), if the bonds are issued and the building is placed in service after December 31, 2006. If an area is not on a subsequent list of DDAs, the 2007 lists are effective for the area if:
 - a. the allocation of credit to an applicant is made no later than the end of the 365-day period after the submission to the credit-allocating agency of a complete application by the applicant, and the submission is made before the effective date of the subsequent lists; or
 - b. the allocation of bonds, for purposes of IRC Section 42(h)(4)(B), are issued or the building is placed in service no later than the end of the 365-day period after the applicant submits a complete application to the bond-issuing agency, and the submission is made before the effective date of the subsequent lists, provided that both the issuance of the bonds and the placement in service of the building occur after the application is submitted.

For DDAs designated by reason of being in areas determined by the president to warrant individual or individual and public assistance from the federal government under the Stafford Act by reason of hurricanes Katrina, Rita and Wilma (the GO Zone designation), the designation is effective: for housing credit dollar amounts allocated and buildings placed in service during the period beginning on January 1, 2006 and ending on December 31, 2008; or for bonds, for purposes of IRC Section 42(h)(4)(B), for buildings placed in service during the period beginning on January 1, 2006 and ending on December 31, 2008, but only with respect to bonds issued after December 31, 2005.

Interpretive Examples for Effective Dates

HUD provided the following interpretive examples in the *Federal Register* notice to illustrate the consequences of the effective date in areas that gain or lose DDA status. The examples are equally applicable to QCT designations.

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Case A

Project A is located in a 2007 regular DDA that **is not** a designated DDA in 2008. An application for tax credits for Project A is filed with the allocating agency November 15, 2007, which the credit-allocating agency certifies in writing as complete. Credits are allocated to Project A on October 30, 2008. Project A is eligible for the increase in basis accorded a project in a 2007 regular DDA because the application was filed **before** January 1, 2008 (the assumed effective date for the 2008 DDA lists), and tax credits were allocated no later than the end of the 365-day period after the filing of the complete application for an allocation of tax credits.

Case B

Project B is located in a 2007 regular DDA that **is not** a designated regular DDA in 2008. An application for tax credits for Project B is filed with the allocating agency December 1, 2007, and, in writing, the credit-allocating agency certifies the application as complete. Credits are allocated to Project B on March 30, 2009. Project B is **not** eligible for the increase in basis accorded a project in a 2007 regular DDA because, although the application for an allocation of tax credits was filed **before** January 1, 2008 (the assumed effective date of the 2008 DDA lists), the tax credits were allocated later than the end of the 365-day period after the filing of the complete application.

Case C

Project C is located in a 2007 regular DDA that **was not** a DDA in 2006. Project C was placed in service November 15, 2006. An application for tax-exempt bond financing for Project C is filed with the bond-issuing agency on January 15, 2007, and, in writing, the bond-issuing agency certifies the application as complete. The bonds that will support the permanent financing of Project C are issued September 30, 2007. Project C is **not** eligible for the increase in basis otherwise accorded a project in a 2007 regular DDA because the project was placed in service **before** January 1, 2007.

Case D

Project D is located in an area that is a regular DDA in 2007, but **is not** a regular DDA in 2008. An application for tax-exempt bond financing for Project D is filed with the bond-issuing agency on October 30, 2007, and, in writing, the bond-issuing agency certifies the application as complete. Bonds are issued for Project D on April 30, 2008, but Project D is not placed in service until January 30, 2009. Project D is eligible for the increase in basis available to projects located in 2007 regular DDAs because the first of the two events necessary for triggering the effective date for buildings described in IRC Section 42(h)(4)(B) (the two events being bonds issued and buildings placed in service) took place on April

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30, 2008, within the 365-day period after a complete application for tax-exempt bond financing was filed, the application was filed during a time when the location of Project D was in a regular DDA, and both the issuance of the bonds and placement in service of project C occurred after then application was submitted.

A list of the 2007 DDA and QCT designations is available online at www.taxcredithousing.com. ❖

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