

**TABLE OF CONTENTS**

**CHAPTER 1 - LIHTC PROPERTY MANAGEMENT..... 1**

**§1.01 Overview ..... 1**

**§1.02 Importance of a Good Property Manager..... 2**

**§1.03 Documentation..... 2**

**§1.04 Proper Tenant File Retention Techniques ..... 3**

**§1.05 Important Time Periods..... 4**

    1. Placed-in-service date ..... 4

    2. Credit period (IRC §42(f)) ..... 5

    3. Compliance period (IRC §42(i)(1)) ..... 5

    4. Extended use period (IRC §42(h)(6)(D))..... 5

**§1.06 Compliance After the Initial 15-Year Credit Period ..... 7**

**§1.07 Minimum Set-Asides ..... 8**

    1. The 20/50 test..... 8

    2. The 40/60 test..... 8

**CHAPTER 2 – INCOME ..... 9**

**§2.01 Area Median Gross Income (AMGI) ..... 9**

**§2.02 Income Limits ..... 10**

**§2.03 Tenant Income ..... 12**

    1. Low-income occupancy test..... 14

    2. Changes in tenant income or AMGI ..... 14

    3. Zero and sporadic income sources ..... 14

    4. Permanently unemployed vs. temporarily unemployed ..... 16

    5. Net assets over/under \$5,000 ..... 17

**§2.04 Completion of Income Certifications ..... 19**

    1. Child support verifications..... 19

**§2.05 Income Recertifications..... 21**

    1. Policy for income recertifications in mixed-income buildings ..... 21

    2. Recertification waiver ..... 22

**CHAPTER 3 - RENT..... 27**

**§3.01 Rent Limits..... 27**

**§3.02 Maximum Rent ..... 28**

**§3.03 Rent Floor ..... 28**

**§3.04 Sales Tax in Rent ..... 29**

**§3.05 Mandatory Renters’ Insurance in Rent..... 29**

**§3.06 Section 8 and Other Rental Assistance Payments..... 30**

**§3.07 Supportive Services ..... 31**

**§3.08 Utility Allowance ..... 32**

    1. Utility allowance determination ..... 32

    2. More flexibility requested in determining utility allowances..... 33

    3. Revised Treasury Regulation 1.42-10..... 34

**CHAPTER 4 – LOW-INCOME HOUSING TAX CREDIT BUILDINGS ..... 37**

**§4.01 Next Available Unit Rule ..... 37**

    1. Reasonable attempts..... 38

    2. Available unit rule and 100 percent LIHTC units ..... 38

**§4.02 Mixed-Income Buildings with Different Bedroom Sizes ..... 39**

**§4.03 Mixed-Income Buildings with the Same Bedroom Sizes ..... 39**

**§4.04 Simple Procedures to Comply with the Next Available Unit Rule ..... 40**

**§4.05 Vacant Units and the Vacant Unit Rule..... 41**

**§4.06 Suitable for Occupancy ..... 42**

**§4.07 Students ..... 43**

    1. Full-time student exceptions ..... 44

    2. Partial guidance on full-time student rule — PLR 200339022 ..... 45

**§4.08 Non-transient Occupancy ..... 46**

**§4.09 Unit Transfers..... 47**

    1. Revenue Ruling 2004-82 — Answering 12 Questions About Low-Income Housing..... 47

    2. History..... 48

    3. Swap..... 48

    4. Certification ..... 48

    5. First year ..... 49

    6. Acquisition/rehabilitation..... 49

**§4.10 Model Units ..... 49**

**§4.11 Manager’s Unit..... 50**

**§4.12 Community Service Facility ..... 50**

**§4.13 Common Area..... 51**  
 1. Inclusion of Vehicles in Eligible Basis ..... 51

**§4.14 Community Service Facility vs. Common Area..... 52**  
 1. Differences between a community service facility and a common area ..... 52

**§4.15 Acquisition/Rehabilitation Issues..... 52**  
 1. Income recertification of tenants of acquisition/rehabilitation developments..... 54

**CHAPTER 5 – MANAGEMENT TOOLS TO COMPLY WITH LIHTC REQUIREMENTS..... 55**

**§5.01 Reports ..... 55**  
 1. Occupancy status ..... 55  
 2. The annual report ..... 55  
 3. The annual owner certification..... 56  
 4. Form 8609 and Schedule A information ..... 56  
 5. Compliance worksheet: summary of qualified low-income occupancy..... 56  
 6. Documentation of next available unit ..... 57  
 7. Exceptional turnover report ..... 57  
 8. Vacant units ..... 57  
 9. Lease expiration report..... 57  
 10. List of residents..... 57

**§5.02 Drafting a Rental Agreement ..... 58**  
 1. Tenant’s representation to the owner ..... 58  
 2. Owner representations to the tenant..... 60

**§5.03 Compliance Items to Monitor Carefully..... 61**  
 1. The number of units in the project ..... 62  
 2. Assigning affordable units ..... 62  
 3. Assigning units and tax credits ..... 62  
 4. Assigning units and fair housing..... 63  
 5. Assigning units and bonds ..... 63

**§5.04 Move-in Last Day of the Month ..... 63**

**§5.05 General Public ..... 64**

**§5.06 Deep Rent Skewing Set-Aside..... 65**

**APPENDIX A ..... 67**

**Sample Application and Lease Forms ..... 67**

TABLE OF CONTENTS

XYZ Apartments — Application .....	69
Residential Lease .....	78
<b>APPENDIX B.....</b>	<b>87</b>
<b>Sample Income Verification Forms .....</b>	<b>87</b>
Authorization for Release of Information .....	89
Other Income Verification .....	90
Public Assistance Verification .....	91
Self-Employment Verification .....	92
Alimony Verification .....	93
Sworn Statement Of No Child Support Received .....	94
Child Support Affidavit.....	95
<b>APPENDIX C .....</b>	<b>97</b>
<b>Sample Asset Verification Forms.....</b>	<b>97</b>
Checking/Savings Account Verification .....	99
Real Estate Verification .....	100
Other Asset Verification .....	101
<b>APPENDIX D .....</b>	<b>103</b>
<b>Other Sample Forms .....</b>	<b>103</b>
Student Status and Income Verification .....	105
Telephone Conversation Report.....	106
<b>APPENDIX E.....</b>	<b>109</b>
<b>NCSHA Standardized Compliance Reports, Forms and Certifications.....</b>	<b>109</b>
Part One: Recommended Practices in Housing Credit Compliance Monitoring.....	111
Owner’s Certificate of Continuing Program Compliance .....	118
Tenant Income Certificate.....	122
Tenant Income Questionnaire .....	123
Employment Verification.....	124
Student Verification .....	125
Certification of Zero Income.....	127
Under \$5,000 Asset Certification.....	128
<b>APPENDIX F.....</b>	<b>129</b>
<b>Sample Utility Allowance Schedules.....</b>	<b>129</b>
Allowances for Utilities and Other Services .....	131
Utility Allowances Exhibits .....	140

**APPENDIX G..... 141**

**Determining Income and Verification From HUD Occupancy Handbook..... 141**

    Chapter 2: Civil Rights and Nondiscrimination Requirements ..... 143

    Chapter 3: Eligibility for Assistance and Occupancy ..... 144

    Chapter 4, Section 1: Tenant Selection Plan ..... 145

    Chapter 5: Determining Income and Verification ..... 146

    Appendix 15: Verification and Consent — Guidance and Sample Formats ..... 147

    Chapter 8: Termination of Tenancy by Lessees ..... 148

**APPENDIX H..... 149**

**Public Housing Authority Income Verification ..... 149**

**APPENDIX I ..... 153**

**Assets Documentation ..... 153**

    IRS Revenue Procedure 94-65: Informs housing credit agencies and owners of qualified low-income housing projects when a signed sworn statement by a low-income tenant will satisfy the documentation requirement of section 1.42-5(b)(1)(vii) of the income tax regulations ..... 155

**APPENDIX J..... 157**

**Internal Revenue Code §42: Low-Income Housing Tax Credit ..... 157**

**APPENDIX K..... 197**

**Treasury Regulations ..... 197**

    § 1.42-5. Monitoring compliance with low-income housing credit requirements. .... 199

    § 1.42-9. For use by the general public. .... 209

    § 1.42-10. Utility allowances. .... 210

    § 1.42-11. Provision of services. .... 212

    § 1.42-15. Available unit rule. .... 214

**APPENDIX L ..... 217**

**26 CFR Parts 1 and 602: Compliance Monitoring and Miscellaneous Issues Relating to the Low-Income Housing Credit ..... 219**

**24 CFR 5.703: HUD Housing Standards ..... 234**

**APPENDIX M ..... 237**

**Legislative History General Explanation 1986 ..... 239**

**APPENDIX N ..... 245**

**IRS Notice 89-6: Utility Allowance Requirements General Public Use Provision of Services... 245**

**APPENDIX O ..... 249**

**Private Letter Ruling 9822026, IRC Section 42: Community building treated as exempt facility  
..... 249**

**APPENDIX P ..... 261**

**Sample IRS Forms 8609 and 8823 ..... 261**

    Form 8609: Low-Income Housing Credit Allocation Certification ..... 263

    Form 8823: Low-Income Housing Credit Agencies Report of Noncompliance or Building  
    Disposition ..... 264

**APPENDIX Q ..... 265**

**Acquisition/Rehabilitation of a Residential Property..... 265**

**APPENDIX R ..... 275**

**Memorandum of Understanding Between IRS, HUD and DOJ..... 275**

**APPENDIX S ..... 281**

**Resources..... 281**

    Property Compliance for Tax-Exempt Bond Projects..... 283

    Index of Authoritative Sources ..... 288

    Glossary ..... 290

    Resource Library..... 319

    Reader Survey ..... 320