



REG-128274-03

ARIZONA DEPARTMENT OF HOUSING

September 7, 2007

Internal Revenue Service
CC:PA:LPD:PR (REG-128274-03)
Room 5203
P.O. Box 7604
Ben Franklin Station,
Washington D.C., 20044

**LEGAL PROCESSING DIVISION
PUBLICATION & REGULATIONS
BRANCH**

SEP 12 2007

RE: Arizona Department of Housing Comments to Proposed Section 42 Utility Allowances Regulations Update, RIN 1545-BC22

Greetings:

The State of Arizona, Arizona Department of Housing ("ADOH"), the allocating agency for low income tax credits in the State of Arizona, hereby submits its comments to the Section 42 Utility Allowance Regulations Update proposed by the Internal Revenue Service in its Notice of Proposed Rulemaking dated June 19, 2007.

ADOH recognizes the problems with the current sources and methods of determining utility allowances and generally supports the options enumerated in the proposed rule. Nevertheless, ADOH believes that the proposed rule needs clarification and should be revised to avoid imposing administrative burden on allocating agencies. Specifically, ADOH has no objection to the proposed changes to provisions for buildings assisted by the Rural Housing Service or regulated by HUD. However, with respect to "other buildings" beginning in paragraph 1.42-10(b)(4), ADOH suggests the following changes:

1. Clarifying language should be added reiterating that the LIHTC owner is responsible for compliance with the requirements of Section 42 and that the owner is required to certify, under penalty of perjury, the accuracy of information, data, or estimates provided to the allocating agency in support of an application for review or determination of a utility allowance.
2. Specific language should be added to clarify that allocating agencies may charge a reasonable fee for review of a submittal for or determination of the utility allowance.
3. The IRS should add a paragraph clarifying that owners may provide a utility allowance estimate on a per unit basis based on usage information for no less than a twelve-month period certified by the public utility for review and approval by the allocating agency. The allocating agency may reject the estimate if the underlying data does not extend over a representative period of time or if the estimate is based on data and information that is not supported by local utility rate data, property type, building materials, mechanical systems, and climate and degree-day variables.

4. Language should be added to paragraph (b)(4)(ii)(D) limiting use of the HUD Utility Schedule Model to data for a twelve-month period ending in the most recent calendar year and requiring the owner to certify the accuracy of the date and the calculation of the estimate.
5. Paragraph (c) should be amended to provide for tolling of the 90-day deadline pending state review of the owner estimates or agency determination of utility allowances upon owner request.
6. Paragraph (c) should be expanded to clarify specific events, including actions or announcements by regulatory agencies that may require a change in utility allowances.

The Arizona Department of Housing greatly appreciates the Service's consideration of these comments to the proposed changes to 26 C.F.R. § 1.42-10.

If ADOH can be of additional assistance, please do not hesitate to contact me.

Sincerely,



Randy Archuleta

Rental Programs Administrator