
Relief from IRS Requirements due to Major Disaster Declaration due to COVID-19

CHFA LIHTC Administration

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The following provides a summary of the basis for developers to seek extensions and other relief in connection with tax credit allocations in certain circumstances based on the COVID-19 epidemic.

Relief Based on IRS Notice 2021-12

On January 15, 2021 the Internal Revenue Service (IRS) issued Notice 2021-12 which extends all COVID-19 relief measures originally provided under Notice 2020-53 and provides further relief previously not addressed. The deadline extensions and waivers provided under Notice 2020-53 expired at the end of 2020. On February 9, 2021, CHFA and Spectrum Enterprises, Inc. (CHFA's Authorized Delegate) issued updated and revised guidance addressing the relief provided in IRS Notice 2021-12 that is applicable to LIHTC compliance and compliance monitoring. That guidance can be located on CHFA's COVID-19 Updates & Resources section of our website or by clicking [here](#). The additional relief items noted below apply to the LIHTC development and allocation process. Although the IRS Notice does not specifically require CHFA's authorization or approval prior to taking advantage of the relief provisions, Owners and Agents are requested to work in conjunction with CHFA when determining whether the relief provisions apply or when they are employed.

IRS Notice 2021-12 provides the following relief from program deadlines:

- The deadline to meet the carryover allocation 10 percent test is extended to the earlier of one year from the original due date or September 30, 2021;
- The placed in service deadline for buildings with original deadlines of December 31, 2020 is extended to December 31, 2021;

- The 24-month minimum rehabilitation expenditure is extended to the earlier of one year from the original end date or September 30, 2021;
- The reasonable period for property restoration or replacement in the event of casualty loss is extended to the earlier of one year from the original end date or December 31, 2021 (applies to casualty losses not due to a presidentially-declared major disaster and to casualty losses due to a pre-COVID-19 presidentially-declared major disaster);
- Extends the deadline by which a property must meet occupancy obligations by providing that the qualified basis of a building for the first year of the credit period is calculated by taking into account any increase in the number of low-income units by the close of the six-month period following the first year of the credit period;
- Extends the 12-month transition period for a tax-exempt bond financed project to satisfy the set-aside for qualification as a residential rental project to September 30, 2021; and
- Extends the two-year rehabilitation expenditure period for tax-exempt bond financed projects to the earlier of one year from the original due date or September 30, 2021.

Extensions Based on IRS Revenue Procedures 2014-49 and 2014-50

In 2014, the Internal Revenue Service (IRS) issued disaster relief guidance through IRS Revenue Procedure 2014-49 in instances when the President of the United States makes a major disaster declaration. When that occurs, this revenue procedure provides the ability for low-income housing tax credit (LIHTC) allocating agencies to extend the statutory deadlines for the 10% test and placed in service dates.

A Major Disaster Declaration was declared in the state of Connecticut related to the COVID-19 Pandemic on March 28, 2020 thereby activating CHFA's ability to provide relief to affected developers and LIHTC transactions.

Owners that have or will execute a carryover allocation agreement between December 1, 2019 and December 31, 2020 and experience unforeseen timing delays prior to closing or during the course of construction that are

attributable to the COVID-19 crisis may request an extension to certain LIHTC benchmarks and deadlines. CHFA, as the LIHTC allocating agency, will consider these requests and may offer the following forms of relief:

1. A 6-month extension of the 10% test deadline for carryover allocations as required by Internal Revenue Code (IRC) Section 42(h)(1)(E)(ii) and IRS regulation 1.42-6.
2. A 12-month extension of the placed in service deadline as required in IRC Section 42(h)(1)(E)(i).

When requesting an extension, owners should be prepared to outline the specific factors that contributed to the project delays as well as to identify and summarize their active steps taken to anticipate and mitigate any delays related to labor interruptions or supply chains.

Any approvals of requests for extensions are considered in CHFA's sole discretion and for extraordinary and uncontrollable circumstances only. If an extension is approved and the owner is not able to meet the related deadline, the credits will be recaptured. CHFA is not authorized by the IRS to provide any additional extensions other than what has been outlined above. Owners should be proactive and provide regular timing updates to CHFA especially if there is concern at any point that the extended deadlines may not be achievable.

Revenue Procedure 2014-50 provides a basis for relief for owners with respect to displaced individuals, but subject to the approval of the issuer of the tax exempt bonds which financed the development.

All requests should be directed to Colette Slover, Multifamily Underwriter 3 and submitted electronically to colette.slover@chfa.org.

Relief Under IRS Notice 2020-23 and IRS Revenue Procedure 2018-58

In accordance with Internal Revenue Service Notice 2020-23 and Revenue Procedure 2018-58, owners and transactions required to meet certain provisions or deadlines between April 1 and July 15 may be eligible for extensions without any requested action from or approval by CHFA.

Taxpayers should consult their legal counsel and properly document files so that it is easily verifiable for auditors and other reviewers (including CHFA compliance staff) to assess the permissibility of extensions for the following items:

1. The 10 percent test requirement as referenced in Section 42(h)(1)(E) and (F).
2. The 24-month period in which the requisite amount of rehabilitation expenditures has to be incurred as required in Section 42(e)(3)(A)(ii).
3. The annual owner certification of compliance as required in regulation 1.42-5(c)(1).
4. The annual tenant income certification requirement in regulation 1.42-5(c)(1)(iii).
5. The requirement to notarize a binding agreement by the fifth day following the end of the month in which the binding agreement was made as referenced in regulation 1.42-8(a)(3)(v).
6. The requirement to notarize a binding agreement by the fifth day following the end of the month in which the tax-exempt bonds are issued as referenced in regulation 1.42-8(b) (1)(vii).
7. The 10-year rule for claiming credits on an existing building as required in Section 42(d)(2)(D)(i)(IV).
8. The minimum set-aside requirement as referenced in Section 42(g)(3)(A).
9. The requirement that a low-income housing commitment must be in effect as of the beginning of the year for a building to receive credit as referenced in Section 42(h)(6)(J).