

April 12, 2005

Internal Revenue Service
Attn: CC:PA:LPD:PR
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

**Subject: Notice 2005-25 – Recommendations for 2005-2006
Guidance Priority List**

To Whom It May Concern:

On behalf of the undersigned industry coalition organizations, we respectfully request that the Internal Revenue Service (“the Service”) undertake action as quickly as possible to amend the regulations pertaining to Section 42.10, “Low-Income Housing Tax Credit” (LIHTC) to provide accurate, reliable and effective adjustments to gross rents to account for resident’s payments of their utilities. Action by the Service to amend the current regulations is critical to maintain the necessary investment in existing affordable rental housing properties, and through employment of the nation’s most effective affordable housing program.

Over the past 2 years, industry stakeholders have presented this matter to the regulations division overseeing the LIHTC program at the Service, and the Service, in turn, recognizes that reasonable and effective means exist to correct this issue. Our most recent discussions took place on March 17, 2005. We request that these issues to be addressed expeditiously through placement on the 2005-2006 work plan, as a swift resolution would create immediate benefits for our industry members. Based on meetings and input from the Service, our recommendations were developed to resolve this long-standing issue for all parties engaged in the approval, production, management and compliance of LIHTC properties.

The issue of adjusting gross rental income on a per unit basis to account for the amount of housing expenses incurred by residents is appropriate and must continue. However, the existing methods to quantify utility expenses are inaccurate and inconsistent, and in many cases result in flawed information upon which the rent adjustments are made. These problems exist for many reasons, primarily non-comparable housing data is used by local public housing authorities for purposes unrelated to the LIHTC program. The data collected by these agencies is used primarily for the purpose of expense monitoring and reimbursement of the nations aging public housing stock.

To assist the Service manage this critical issue, the industry coalition representing the interests of property owners, managers and developers, in consultation with housing credit allocating agencies and others, worked over the past two years to formulate workable solutions that would meet the interests of all parties. With this supporting information, the Agency is well positioned to amend the current regulations and to further accurate and fair utility adjustments to unit rents. Currently, and in agreement with our future expectations, there is no opposition to the following proposals as they resolve fundamental weaknesses of the existing regulations. In addition, our proposals create incentives for energy conservation and efficiency. We are confident that modifications will be accepted and are not costly to the government or to the participants in the LIHTC program.

More accurate methods must be developed to better estimate tenant utility costs. Currently, although there is a severe need, there is no method that is directly and exclusively applicable to LIHTC properties. The existing regulation employs requirements and data from other housing programs, causing inconsistencies and inaccuracies in an LIHTC application.

Thank you for your time and attention to these issues. Should you have any questions or concerns regarding this request, please contact either Carmel McGuire at the National Association of Home Builders (NAHB) at (202) 266-8207 or David Cardwell at the National Multi Housing Council at (202) 974-2336.

Respectfully,

The Council for Affordable and Rural Housing
The National Apartment Association
The National Affordable Housing Management Association
The National Association of Home Builders
The National Leased Housing Association
The National Multi Housing Council

cc: National Council of State Housing Agencies
Susan Reaman, Internal Revenue Service
David Selig, Internal Revenue Service