

Housing Tax Credit Allocation procedures for Tax-Exempt Bonds

Section 42 of the Internal Revenue Code (IRC) establishes a separate set of procedures to obtain housing tax credits through the issuance of tax-exempt (TE) Bonds. Although the tax credits are not counted in the tax credit volume cap for the State of Minnesota, developers of projects should be aware of the information contained in Article 9 of the State of Minnesota Housing Tax Credit Qualified Allocation Plan (QAP).

In Minnesota, the Department of Finance is the primary apportionment agency for TE Bonds. Minnesota Housing and some local units of government receive a set-aside of TE Bonds for issuance to qualified developments. For information on application dates and procedures for TE Bonds, contact the Department of Finance at: <http://www.finance.state.mn.us/bonds/teb/index.html>

Explanation of Tax Credit Allocation Procedures for TE Bonds may be found in the Minnesota Housing HTC Procedural Manual and QAP.

Section 42(m)(1)(D) requires the **tax credit allocator** produce a letter verifying the development complies with the applicable QAP. The applicable QAP is that of the allocating agency responsible for the 42(m)(1)(D) tax credit review as outlined below. The Minnesota Housing QAP refers to the HTC Manual, which requires the development comply with Minnesota Housing underwriting benchmarks.

Section 42(m)(2)(D) requires that the **TE Bond issuer** produce a letter determining that the development is financially feasible and that no excess credits are awarded. The applicable underwriting criteria and benchmarks are those of the tax credit allocating agency responsible for the 42(m)(1)(D) determination.

The following is a summary of the tax credit review requirements under Minnesota Statutes, Section 462A.222, Subdivision 3(c):

- a. **If TE Bonds are issued by Minnesota Housing**
 - Minnesota Housing will perform the Section 42(m)(1)(D) and 42(m)(2)(D) tax credit review pursuant to the QAP regardless of where the project is located. Including projects located in the jurisdiction of a suballocator.
- b. **If TE Bonds are issued by a suballocator**
 - The suballocator will perform the Section 42(m)(1)(D) and 42(m)(2)(D) tax credit review pursuant to the suballocator's QAP if the project is in their jurisdiction.
- c. **If TE Bonds are issued by a county for a project located within the boundaries of a suballocator within the county.**
 - The suballocator will perform the Section 42(m)(1)(D) tax credit review pursuant to the suballocator's QAP. For TE Bonds issued by Hennepin County for projects in Minneapolis or for TE Bonds issued by Ramsey County for projects in Saint Paul, the Minneapolis/Saint Paul Housing Finance Board will perform the 42(m)(2)(D) review.

- d. **If TE Bonds are issued by a city or county and the project is located outside of the jurisdiction of a suballocator**
 - Minnesota Housing will perform the Section 42(m)(1)(D) tax credit review and the 42(m)(2)(D) review will be completed by the bond issuer.

- e. **If TE Bonds are issued in a jurisdiction of a suballocator that has a Joint Powers Agreement with Minnesota Housing**
 - The Section 42(m)(1)(D) review may be performed by Minnesota Housing to the extent provided for in the Joint Powers Suballocator Agreement and the 42(m)(2)(D) review will be completed by the bond issuer.

The development must comply with the QAP that is in effect for the calendar year in which the TE Bonds were first allocated by the Minnesota Department of Finance to the issuer. If the TE Bonds are initially marketed on a short-term basis, the year the TE Bonds are remarketed on a long-term basis may occur anytime after the year the TE Bonds were allocated and the effective QAP will always be the QAP for the year in which the TE Bonds were allocated.

IRC Section 42 (b) (1) and Treasury Regulations Section 1.42-8 (b) address the applicable percentage and how the appropriate percentage month is established. Making the proper election of the appropriate percentage month, the related applicable percentage and properly reporting and documenting these occurrences to the appropriate housing tax credit allocating agency is very important. It is the taxpayer's responsibility to be aware of the related IRC and Treasury Regulation requirements and to make the elections and reporting as provided for in the time and manner prescribed.