

Notice 94-60, 1994-1 CB 371--IRC Sec(s).42

June 06, 1994

OBSOLETE NOTICES

This notice obsoletes Notice 89-1, 1989-1 C.B. 620, and Notice 89-6, 1989-1 C.B. 625.

Notice 89-1 provides guidance on making an election under section 42(b)(2)(A) of the Internal Revenue Code to use the appropriate percentage for a building for a month other than the month in which the building is placed in service. For a building that requires an allocation of credit from a state housing credit agency (Agency), a taxpayer may elect the appropriate percentage for the month in which the taxpayer and the Agency enter into an agreement that is binding on the Agency, the taxpayer, and all successors in interest as to the housing credit dollar amount to be allocated to the building. In the case of any building to which section 42(h)(4)(B) applies, a taxpayer may elect the month in which the tax-exempt obligations are issued. Notice 89-1 also provides guidance with respect to carryover allocations under section 42(h)(1)(E).

Notice 89-6 provides guidance on the utility allowances that must be included in gross rent to qualify a unit as a "rent-restricted unit" under section 42(g) of the Code; the circumstances when a residential rental unit is considered for use by the general public; and the cost of services other than housing that are required to be taken into gross rent.

On May 2, 1994, sections 1.42-6 and 1.42-8 through 12 of the Income Tax Regulations became effective. These regulations incorporate and, in certain instances, amend, the guidance provided in Notice 89-1 and Notice 89-6.

Notice 89-1, 1989-1 C.B. 620, and Notice 89-6, 1989-1 C.B. 625, are obsolete for periods after May 1, 1994. Both notices remain in effect for periods prior to May

2, 1994. However, binding agreements, election statements, and carryover allocation documents entered into before May 2, 1994, that follow the guidance set forth in Notice 89-1 need not be changed to conform to sections 1.42-6 and 1.42-8 through 12 of the regulations.

DRAFTING INFORMATION CONTACT

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