

Rev. Rul. 89-24

1989-1 C.B. 24, 1989-9 I.R.B. 5.

Internal Revenue Service

Revenue Ruling

EXEMPT FACILITY BONDS; LOW-INCOME HOUSING CREDIT

Published: February 27, 1989

Section 142. - Exempt Facility Bond

(Also Sections 42, 103, 6652; 1.42-1T, 1.103-8.)

Exempt facility bonds; low-income housing credit. Guidance is provided for computing the income limits applicable to exempt facility bonds issued to provide for qualified residential rental projects under section 142 of the Code and to low-income housing credits under section 42.

This Revenue Ruling provides the manner in which properly to compute the income limits applicable both to exempt facility bonds issued to provide for qualified residential rental projects under section 142 of the Internal Revenue Code and to low-income housing credits under section 42.

LAW

Section 1301 of the Tax Reform Act of 1986, 1986-3 (Vol. I) C.B. 524 (the Act), revised the income limits applicable to exempt facility bonds issued to provide for multifamily residential rental projects. COMPARE section 142(d) and former section 103(b)(4)(A) of the Code.

In general, in order for interest on an exempt facility bond issued to provide for a multifamily residential rental project to be tax-exempt, the project must meet the income limit requirement of section 142(d)(1) of the Code. Under section 142(d)(1), a 'qualified residential rental project' is defined to include only residential rental projects where, either (A) 20 percent or more of the residential units in the project are occupied by individuals whose income is 50 percent or less of the area median gross income (the 20-50 requirement), or (B) 40 percent or more of the residential units in the project are occupied by individuals whose income is 60 percent or less of the area median gross income (the 40-60 requirement), whichever is elected by the issuer of the bonds providing for such project.

Section 142(d)(4) of the Code provides that, in the case of a deep rent skewed project, 15 percent or more of the low-income units must be occupied by individuals whose income is 40 percent or less of the area median gross income.

Section 142(d)(2) of the Code provides that the income of individuals and the area median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income facilities and area median gross income under section 8 of the United States Housing Act of 1937 or, if such program is terminated, under such program as in effect immediately before such termination. Determinations under the preceding sentence shall include adjustments for family size.

Section 252 of the Act enacted section 42 of the Code, which provides a new federal income tax credit that may be claimed by owners of residential rental projects providing low-income housing. Section 42(a) provides that the amount of the credit shall be based on an applicable percentage of the qualified basis of each qualified low-income building. Section 42(c)(2) defines the term 'qualified low-income building' to mean, in part, any building that at all times during the compliance period with respect to such building is part of a qualified low-income housing project.

Section 42(g)(1) provides that the term 'qualified low-income housing project' means any project for residential rental property if, either (A) 20 percent or more of the units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of the area median gross income, or (B) 40 percent or more of the units in the project are both rent-restricted and occupied by individuals whose income is 60 percent or less of the area median gross income, whichever is elected by the taxpayer.

Section 42(g)(4) of the Code provides in part, that paragraph (2) (other than subparagraph (A)) and paragraph (4) of section 142(d) shall apply for purposes of determining whether any project is a qualified low-income housing project and whether any unit is a low-income unit.

## ANALYSIS AND HOLDING

The income limits applicable to qualified residential rental projects and to qualified low-income housing projects are required to be made in a manner consistent with determinations of lower income families under section 8 of the United States Housing Act of 1937. With respect to the 20-50 requirement of sections 142(d)(1)(A) and 42(g)(1)(A) of the Code, 20 percent or more of the applicable units must be occupied by individuals or families having incomes equal to or less than the income limit for a 'very low-income' family of the same size. With respect to the 40-60 requirement of sections 142(d)(1)(B) and 42(g)(1)(B), 40 percent of the applicable units must be occupied by individuals or families having incomes equal to 120 percent or less of the income limit for a very low-income family of the same size.

With respect to certain deep rent skewed projects, as described in section 142(d)(4), the determination of whether 15 percent of the low-income units are occupied by individuals having incomes equal to 40 percent or less of the area median gross income shall be made by determining whether 15 percent of such units are occupied by individuals or families having incomes equal to or less than 80 percent of the income limit for a very low-income family of the same size.

The income limits for very low-income families are computed and listed, according to family size, by the Department of Housing and Urban Development (HUD) for every Metropolitan Statistical Area, Primary Metropolitan Statistical Area, and nonmetropolitan county of the United States and Puerto Rico. HUD also releases income limits for the possessions of Guam and the Virgin Islands.

A list of income limits released by HUD may be relied upon until 30 days after the Internal Revenue Service publishes an announcement or notice in the Internal Revenue Bulletin indicating that HUD has released updated income limits.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Mark Scott of the Office of Assistant Chief Counsel (Financial Institutions and Products). For further information regarding this revenue ruling, contact Mr. Scott on (202) 566-4336 (not a toll-free call).

Rev. Rul. 89-24, 1989-1 C.B. 24, 1989-9 I.R.B. 5.