

(A) the taxable year in which the building is placed in service,
or
(B) at the election of the taxpayer, the succeeding taxable
year,
but only if the building is a qualified low-income building as of
the close of the 1st year of such period. The election under
subparagraph (B), once made, shall be irrevocable .

(2) Special rule for 1st year of credit period. --

(A) In general. -- The credit allowable under subsection (a)
with the respect to any building for the 1st taxable year of the
credit period shall be determined by substituting for the
applicable fraction under subsection (c)(1) the fraction --

(i) the numerator of which is the sum of the applicable
fractions determined under subsection (c)(1) as of the close of
each full month of such year during which such building was in
service, and

(ii) the denominator of which is 12.

(B) Disallowed 1st year credit allowed in 11th year. -- Any
reduction by reason of subparagraph (A) in the credit allowable
(without regard to subparagraph (A)) for the 1st taxable year of
the credit period shall be allowable under subsection (a) for the
1st taxable year following the credit period.

(3) Determination of applicable percentage with respect to
increases in qualified basis after 1st year of credit period. --

(A) In general. -- In the case of any building which was a
qualified low-income building as of the close of the 1st year of
the credit period, if --

(i) as of the close of any taxable year in the compliance period
(after the 1st year of the credit period) the qualified basis of
such building exceeds

(ii) the qualified basis of such building as of the close of the
1st year of the credit period,
the applicable percentage which shall apply under subsection (a)
for the taxable year to such excess shall be the percentage equal
to $\frac{2}{3}$ of the applicable percentage which (after the application
of subsection (h)) would but for this paragraph apply to such
basis.

(B) 1st year computation applies. -- A rule similar to the rule
of paragraph (2)(A) shall apply to any increase in qualified
basis to which subparagraph (A) applies for the 1st year of such
increase.

(4) Dispositions of property. -- If a building (or an interest
therein) is disposed of during any year for which credit is
allowable under subsection (a), such credit shall be allocated
between the parties on the basis of the number of days during
such year the building (or interest) was held by each. In any
such case proper adjustments shall be made in the application of
subsection (j).

(5) Credit period for existing buildings not to begin before
rehabilitation credit allowed. --

(A) In general. -- The credit period for an existing building
shall not begin before the 1st taxable year of the credit period
for rehabilitation expenditures with respect to the building.

(B) Acquisition credit allowed for certain buildings not allowed a rehabilitation credit. --

(i) In general. -- In the case of a building described in clause (ii) --

(I) Subsection (d)(2)(B)(iv) shall not apply, and

(II) the credit period for such building shall not begin before the taxable year which would be the 1st taxable year of the credit period for rehabilitation expenditures with respect to the building under the modifications described in clause (ii)(II).

(ii) Building described. -- A building is described in this clause if --

(I) a waiver is granted under subsection 9d)(6)(C) with respect to the acquisition of the building, and

(II) a credit would be allowed for rehabilitation expenditures with respect to such building if subsection (e)(3)(A)(ii)(I) did not apply and if subsection (e)(3)(ii)(I) were applied by substituting "\$2,000" for "\$3,000".

(g) Qualified low-income housing project. -- For purposes of this section --

(1) In general. -- The term "qualified low-income housing project" means any project for residential rental property if the project meets the requirements of subparagraph (A) or (B) whichever is elected by the taxpayer:

(A) 20-50 test. -- The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40-60 test. -- The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Any election under this paragraph, once made, shall be irrevocable. For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

(2) Rent-restricted units. --

(A) In general. -- For purposes of paragraph (1), a residential unit is rent-restricted if the gross rent with respect to such unit does not exceed 30 percent of the imputed income limitation applicable to such unit. For purposes of the preceding sentence, the amount of the income limitation under paragraph (1) applicable for any period shall not be less than such limitation applicable for the earliest period the building (which contains the unit) was included in the determination of whether the project is a qualified low-income housing project.

(B) Gross rent. -- For purposes of subparagraph (A), gross rent --

(i) does not include any payment under section 8 of the United States Housing Act of 1937 or any comparable rental assistance program (with respect to such unit or occupants thereof),

(ii) includes any utility allowance determined by the Secretary after taking into account such determinations under section 8 of the United States Housing Act of 1937,j

(iii) does not include any fee for a supportive service which is paid to the owner of the unit (on the basis of the low-income status of the tenant of the unit) by any governmental program of assistance (or by an organization described in section 501(c)(3) and exempt from tax under section 501(a)) if such program (or organization) provides assistance for rent and the amount of assistance provided for rent is not separable from the amount of assistance provided for supportive services, and

(iv) does not include any rental payment of the owner of the unit to the extent such owner pays an equivalent amount to the Farmers' Home Administration under section 515 of the Housing Act of 1949.

For purposes of clause (iii), the term "supportive service" means any service provided under a planned program of services designed to enable residents of a residential rental property to remain independent and avoid placement in a hospital, nursing home, or intermediate care facility for the mentally or physically handicapped. In the case of a single-room occupancy unit or a building described in subsection (i)(3)(B)(iii), such term includes any service provided to assist tenants in locating and retaining permanent housing.

(C) Imputed income limitation applicable to unit. -- For purposes of this paragraph, the imputed income limitation applicable to a unit is the income limitation which would apply under paragraph (1) to individuals occupying the unit if the number of individuals occupying the unit were as follows:

(i) In the case of a unit which does not have a separate bedroom, 1 individual.

(ii) In the case of a unit which has 1 or more separate bedrooms, 1.5 individuals for each separate bedroom.

In the case of a project with respect to which a credit is allowable by reason of this section and for which financing is provided by a bond described in section 142(a)(7), the imputed income limitation shall apply in lieu of the otherwise applicable income limitation for purposes of applying section 142(d)(4)

(B)(ii).

(D) Treatment of units occupied by individuals whose incomes rise above limit. --

(i) In general. -- Except as provided in clause (ii), notwithstanding an increase in the income of the occupants of a low-income unit above the income limitation applicable under paragraph (1), such unit shall continue to be treated as a low-income unit if the income of such occupants initially met such income limitation and unit continues to be rent-restricted.

(ii) Next available unit must be rented to low-income tenant if income rises above 140 percent of income limit. -- If the income of the occupants of the unit increases above 140 percent of the income limitation applicable under paragraph (1), clause (i) shall cease to apply to such unit if any residential rental unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation. In the case of a project described in section 142(d)(4)(B), the preceding sentence shall be applied by substituting "170 percent" for "140 percent" and by substituting "any low-income unit in the building is occupied by a new

resident whose income needs exceeds 40 percent of area median gross income" for "any residential unit in the building (of a size comparable to, or smaller than, such unit) is occupied by a new resident whose income exceeds such income limitation".

(E) Units where federal rental assistance is reduced as tenant's income increases. -- If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if --

(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if --

(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made.

(3) Date for meeting requirements. --

(A) IN general. -- Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 1st year of the credit period for such building.

(B) Buildings which rely on later buildings for qualification. -

(i) In general. -- In determining whether a building (hereinafter in this subparagraph referred to as the "prior building") is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

(ii) Treatment of elected buildings. -- In the case of a building which the taxpayer elects to taken into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

(iii) Date prior building is treated as placed in service. -- For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer with respect to such prior building was placed in service.

(C) Special rule. -- A building --

(i) other than the 1st building placed in service as part of a project and

(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building, shall in no event be treated as a qualified low-income housing project (without regard to such building) on the date such building is placed in service.

(D) Projects with more than 1 building must be identified. -- For purposes of this section, a project shall be treated as consisting of only 1 building unless, before the close of the 1st calendar year in the project period (as defined in subsection (h)(1)(F)(ii)), each building which is (or will be) part of such project is identified in such form and manner as the Secretary may provide.

(4) Certain rules made applicable. -- Paragraphs (2) (other than subparagraph (A) thereof), (3), (4), (4), (5), (6), and (7) of section 142(d), and section 6652(j), 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; except the, in applying such provisions for such purposes, the term "gross rent" shall have the meaning given such term by paragraph (2)(B) of this subsection.

(5) Election to treat building after compliance period as not part of a project. -- For purposes of this section, the taxpayer may elect to treat any building as not part of a qualified low-income housing project for any period beginning after the compliance period for such building.

(6) Special rule where de minimis equity contribution. -- Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if --

(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted.

(7) Scattered site projects. -- Buildings which would (but for their lack of proximity) be treated as a project for purposes of this section shall be so treated if all of the dwelling units in each of the buildings are rent-restricted (within the meaning of paragraph (2)) residential rental units.

(h) Limitation on aggregate credit allowable with respect to projects located in a state. --

(1) Credit may not exceed credit amount allocated to building. -

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(A) In general. -- The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

(B) Time for making allocation. -- Except in the case of an allocation which meets the requirements of subparagraph (C), (D), (E), or (F) an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

(C) Exception where binding commitment. -- An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

(D) Exception where increase in qualified basis. --

(i) In general. -- An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

(ii) Limitation. -- The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of --

(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

(iii) Housing credit dollar amount reduced by full allocation. -

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Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2).

(E) Exception where 10 percent of cost incurred. --

(i) IN general. -- An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made.

(ii) Qualified building. -- For purposes of clause (i), the term "qualified building" means any building which is part of a project if the taxpayer's basis in such project (as of the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer's reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i)). Such term does not include any existing building unless a credit is allowable under subsection (e) for rehabilitation expenditures paid or incurred by the taxpayer with respect to such building for a taxable year ending during the second calendar year referred to in clause (i) or the prior taxable year.

(F) allocation of credit on a project basis. --

(i) In general. -- In the case of a project which includes (or will include) more than 1 building, an allocation meets the requirements of this subparagraph if --

(I) the allocation is made to the project for a calendar year during the project period,

(II) the allocation only applies to buildings placed in service during or after the calendar year for which the allocation is made, and

(III) the portion of such allocation which is allocated to any building in such project is specified not later than the close of the calendar year in which the building is placed in service.

(ii) Project period. -- For purposes of clause (i), the term "project period" means the period --

(I) beginning with the 1st calendar year for which an allocation may be made for the 1st building placed in service as part of such project, and

(II) ending with the calendar year the last building is placed in service as part of such project.

(2) Allocated credit amount to apply to all taxable years ending during or after credit allocation year. -- Any housing credit dollar amount allocated to any building for any calendar year --

(A) shall apply to such building for all taxable years in the compliance period ending during or after such calendar year, and

(B) shall reduce the aggregate housing credit dollar amount of the allocating agency only for such calendar year.

(3) Housing credit dollar amount for agencies. --

(A) In general. -- The aggregate housing credit dollar amount which a housing credit agency may allocate for any calendar year is the portion of the State housing credit ceiling allocated under this paragraph for such calendar year to such agency.

(B) State ceiling initially allocated to state housing credit agencies. --

Except as provided in subparagraphs (D) and (E), the State housing credit ceiling for each calendar year shall be allocated to the housing credit agency of such State. If there is more than 1 housing credit agency of a State, all such agencies shall be treated as a single agency.

(C) State housing credit ceiling. -- The State housing credit ceiling applicable to any State for any calendar year shall be an amount equal to the sum of --

(i) \$1.25 multiplied by the State population,

(ii) the unused State housing credit ceiling (if any) of such State for the preceding calendar year,

(iii) the amount of State housing credit ceiling returned in the calendar year, plus

(iv) the amount (if any) allocated under subparagraph (D) to such State by the Secretary.

For purposes of clause (ii), the unused State housing credit ceiling for any calendar year is the excess (if any) of the sum of the amounts described in clauses (i) and (iii) over the aggregate housing credit dollar amount allocated for such year.

For purposes of clause (iii), the amount of State housing credit ceiling returned in the calendar year equals the housing credit dollar amount previously allocated within the State to any project which does not become a qualified low-income housing project within the period required by this section or the terms of the allocation or to any project with respect to which an allocation is cancelled by mutual consent of the housing credit agency and the allocation recipient.

(D) Unused housing credit carryovers allocated among certain states. --

(i) In general. -- The unused housing credit carryover of a State for any calendar year shall be assigned to the Secretary for allocation among qualified States for the succeeding calendar year.

(ii) Unused housing credit carryover. -- For purposes of this subparagraph, the unused housing credit carryover of a State for any calendar year is the excess (if any) of the unused State housing credit ceiling for such year (as defined in subparagraph (C)(ii)) over the excess (if any) of --

(I) the aggregate housing credit dollar amount allocated for such year, over

(II) the sum of the amounts described in clauses (i) and (iii) of subparagraph (C).

(iii) Formula for allocation of unused housing credit carryovers among qualified states. -- The amount allocated under this subparagraph to a qualified State for any calendar year shall be the amount determined by the Secretary to bear the same ratio to the aggregate unused housing credit carryovers of all States for the preceding calendar year as such State's population for the calendar year bears to the population of all qualified States for the calendar year. For purposes of the preceding sentence, population shall be determined in accordance with section 146(j).

(iv) Qualified state. -- For purposes of this subparagraph, the term "qualified State" means, with respect to a calendar year, any State --

(I) which allocated its entire State housing credit ceiling for the preceding calendar year, and

(II) for which a request is made (not later than May 1 of the calendar year) to receive an allocation under clause (iii).

(E) Special rule for states with constitutional home rule cities. -- For purposes of this subsection --

(i) In general. -- The aggregate housing credit dollar amount for any constitutional home rule city for any calendar year shall be an amount which bears the same ratio to the State housing credit ceiling for such calendar year as --

(I) the population of such city, bears to

(II) the population of the entire State.

(ii) Coordination with other allocations. -- In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying this paragraph with respect to housing credit agencies in such State other than constitutional home rule cities, the State housing credit ceiling for any calendar year shall be reduced by the aggregate housing credit dollar amounts determined for such year for all constitutional home rule cities in such State.

(iii) Constitutional home rule city. -- For purposes of this paragraph, the term "constitutional home rule city" has the meaning given such term by section 146(d)(3)(C).

(F) State may provide for different allocation. -- Rules similar to the rules of section 146(e) (other than paragraph (2)(B) thereof) shall apply for purposes of this paragraph.

(G) Population. -- For purposes of this paragraph, population shall be determined in accordance with section 146(j).

(4) Credit for buildings financed by tax-exempt bonds subject to volume cap not taken into account. --

(A) In general. -- Paragraph (1) shall not apply to the portion of any credit allowable under subsection (a) which is

attributable to eligible basis financed by any obligation the interest on which is exempt from tax under section 103 if --

(i) such obligation is taken into account under section 146, and

(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing.

(B) Special rule where 50 percent or more of building is financed with tax-exempt bonds subject to volume cap. -- For purposes of subparagraph (A), if 50 percent or more of the aggregate basis of any building and the land on which the building is located is financed by any obligation described in subparagraph (A), paragraph (1) shall not apply to any portion of the credit allowable under subsection (a) with respect to such building.

(5) Portion of state ceiling set-aside for certain projects involving qualified nonprofit organizations. --

(A) In general. -- Not more than 90 percent of the State housing credit ceiling for any State for any calendar year shall be allocated to projects other than qualified low-income housing projects described in subparagraph (B).

(B) Projects involving qualified nonprofit organizations. -- For purposes of subparagraph (A), a qualified low-income housing project is described in this subparagraph if a qualified nonprofit organization is to own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h) in the development and operation of the project throughout the compliance period.

(C) Qualified nonprofit organization. -- For purposes of this paragraph the term "qualified nonprofit organization" means any organization if --

(i) such organization is described in paragraph (3) or (4) of section 501(c) and is exempt from tax under section 501(a).

(ii) such organization is determined by the State housing credit agency not to be affiliated with or controlled by a for-profit organization; and

(iii) 1 of the exempt purposes of such organization includes the fostering of low-income housing.

(D) Treatment of certain subsidiaries. --

(i) In general. -- For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the ownership and material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

(ii) Qualified corporation. -- For purposes of clause (i), the term "qualified corporation" means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence.

(E) State may not override set-aside. -- Nothing in subparagraph (F) of paragraph (3) shall be construed to permit a State not to comply with subparagraph (A) of this paragraph.

(6) Buildings eligible for credit only if minimum long-term commitment to low-income housing. --

(A) In general. -- No credit shall be allowed by reason of this section with respect to any building for the taxable year unless an extended low-income housing commitment is in effect as of the end of such taxable year.

(B) Extended low-income housing commitment. -- For purposes of this paragraph, the term "extended low-income housing commitment" means any agreement between the taxpayer and the housing credit agency --

(i) which requires that the applicable fraction (as defined in subsection (c)(1) for the building for each taxable year in the extended use period will not be less than the applicable fraction specified in such agreement, and which prohibits the actions described in subclauses (I) and (II) of subparagraph (E)(ii),

(ii) which allows individuals who meet the income limitation applicable to the building under subsection (g) (whether prospective, present, or former occupants of the building) the right to enforce in any State court the requirement and prohibitions of clause (i),

(iii) which prohibits the disposition to any person of the portion of the building to which such agreement applies unless all of the building to which such agreement applies is disposed of to such person,

(iv) which is binding on all successors of the taxpayer, and

(v) which, with respect to the property, is recorded pursuant to State law as a restrictive covenant.

(C) Allocation of credit may not exceed amount necessary to support commitment. --

(i) In general. -- The housing credit dollar amount allocated to any building may not exceed the amount necessary to support the applicable fraction specified in the extended low-income housing commitment for such building, including any increase in such fraction pursuant to the application of subsection (f)(3) if such increase is reflected in an amended low-income housing commitment.

(ii) Buildings financed by tax-exempt bonds. --