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IRS Provides Further Relief for Low-Income Housing Tax Credit

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In response to the continuing presence of the COVID-19 pandemic and the emergence of new disease variants, the Internal Revenue Service (the “IRS”) issued [Notice 2022-05](#) on January 11, 2022 to provide additional relief for owners and operators of qualified low-income housing projects. This guidance follows multiple IRS extensions, most recently in [Notice 2021-12](#) (as clarified by [Notice 2021-17](#)), relaxing certain requirements for the low-income housing tax credit (“LIHTC”) under Section 42 of the U.S. Internal Revenue Code of 1986, as amended (the “Code”) and requirements for qualified residential rental projects under Sections 142(d) and 147(d) of the Code.

Relief for Deadlines for Time-Sensitive Actions

The IRS has extended the following deadlines:

Applicable Requirement	Original Deadline (without regard to prior extensions)	Extended Deadline
LIHTC		
Satisfaction of 10% test for carryover allocations	On or after 4/1/2020, before 1/1/2021	Original deadline plus 2 years
	On or after 1/1/2021, before 12/31/2022	12/31/2022
End of 24-month minimum rehabilitation expenditure period	On or after 4/1/2020, before 1/1/2021	Original deadline plus 18 months
	On or after 1/1/2021, before 7/1/2022	6/30/2023
	On or after 7/1/2022, before 1/1/2023	Original deadline plus 12 months
	On or after 1/1/2023, before 12/31/2023	12/31/2023
Placement in service of the low-income building	12/31/2020	12/31/2022
	12/31/2021, with original deadline for 10% test before 4/1/2020	12/31/2022
	12/31/2021, with original deadline for 10% test on or after 4/1/2020	12/31/2023
	12/31/2022	12/31/2023

Reasonable period for restoration or replacement in the event of casualty loss	On or after 4/1/2020	Earlier of (a) original deadline plus 18 months and (b) 12/31/2022
Satisfaction of occupancy obligations	Close of first year of credit period on or after 4/1/2020 and before 1/1/2022	Qualified basis for the first year of the credit period is calculated by taking into account any increase in the number of low-income units by the close of the 6-month period following the close of the first year
Correction period	On or after 4/1/2020, Before 12/31/2021	Earlier of (a) original deadline plus 1 year and (b) 12/31/2022
Qualified Residential Rental Projects		
Last day of 12-month transition period	On or after 4/1/2020, Before 12/31/2022	12/31/2022
Last day of the 2-year rehabilitation expenditure period for a bond	On or after 4/1/2020, Before 12/31/2023	Earlier of (a) original deadline plus 18 months and (b) 12/31/2023

Relief for Certain Operational Provisions

Compliance Monitoring

An agency allocating LIHTCs is not required to conduct physical inspections between April 1, 2020 and June 30, 2022. This period may be extended by an agency to December 31, 2022, depending on transmission rates of COVID-19.

Between April 1, 2020 and December 31, 2022, an agency allocating LIHTCs may treat 30 days as a reasonable notice period when it gives an owner notice that it will review low-income certifications of or physically inspect not-yet-identified low-income units. Beginning on January 1, 2023, this reasonable notice period will revert to 15 days.

Emergency Housing for Medical Personnel

If medical personnel and other essential workers are providing services during the COVID-19 pandemic between April 1, 2020 and December 31, 2022 (extended from September 30, 2021 under Notice 2021-12), owners and operators of low-income housing projects may treat those personnel as if they were Displaced Individuals (as defined in Revenue Procedures 2014-49 and 2014-50), and thus may provide emergency housing for them.

This taxpayer-friendly notice should continue to help to alleviate some of the difficulties and disruptions that many LIHTC developers and project owners are facing as a result of the continuing presence of the COVID-19 pandemic.

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