OCCH
OHIO CAPITAL CORPORATION FOR HOUSING

COMPLIANCE UPDATE ALERT

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2017 Income Limits

The 2017 Income Limits were published on April 14th, 2017. This means that the new limits must be implemented within 45 days of April 14th, 2017, or in other words, not later than May 28th, 2016.

What's New for 2017 Regarding the Income Limits?

There are no policy changes regarding implementation of the 2017 income limits. But if you are new to the tax credit world, or simply need a refresher on how the income limits work in the tax credit world, read on!

The Impact of HERA on Income Limits

Since the Housing and Economic Recovery Act of 2008 (aka HERA or HR 3221) included provisions that changed the way income limits are calculated for tax credit properties, HUD has eliminated the "hold harmless" policy for Section 8 projects. Eliminating the "hold harmless" policy means that income limits can decrease and the 2017 limits for the Midwest include many counties where the limits decreased for 2017 as well as some that increased. However, due to the provisions of HERA, tax credit properties are protected from decreases to the income limits after they are placed in service. To receive this protection, tax credit projects must select the proper income limit based on the placed in service date of the project. This introduces a level of complexity into applying the income limits that the industry has not previously had to deal with. Property managers need to thoroughly understand which set of limits their property is eligible to use.

HUD publishes separate sets of income limits for Section 8 programs and LIHTC and tax-exempt Bond projects. LIHTC and tax-exempt Bond projects use the Multifamily Tax Subsidy Project (MTSP) limits.

HERA specified the following for tax credit projects:

Once a project is placed in service, Area Median income cannot decrease for the project. (For properties currently under construction or in development, also see the discussion regarding the Gross Rent Floor, below.) For projects which are being placed in service between April 14th, 2017 and May 27, 2017, these projects can utilize the 2016 limits if they are higher. Projects placed in service May 28th, 2017, or later must use the 2017 limits.

Projects placed in service in 2008 or before are "HUD Hold Harmless" impacted projects and are permitted to utilize "HERA Special Limits". These projects may use the published "HERA Special Limit", if there is one for the county.

Gross Rent Floor

Once a project has been placed in service, the HERA legislation ensures that income limits will not decrease for a project. However, projects that have been allocated credits but have not yet placed in service would be affected if income limits decreased. Revenue Procedure 94-57 provides a method for establishing a gross rent floor—a floor that the gross rents would never fall below.

- The gross rent floor is based on the income limit in effect at the time of carryover for the project – unless the owner elects to establish the gross rent floor based on the income limit in effect at placed in service. If electing to use the limit at placed in service, the owner must make this election no later than the date the first building is placed in service.
- For purposes of qualifying first year tenants, the current (lower) income limit would still be used. However, rents could be based on the (higher) limit in effect when the gross rent floor was established.

Rural Tax Credit Properties

For projects financed with 9% tax credits and defined as "rural" (in accordance with Section 520 of the Housing Act of 1949), the income limits are the greater of the area median income or the national non-metro median income.

Properties can confirm their eligibility to use the national non-metro income limit by consulting the Rural Development web site at http://eligibility.sc.egov.usda.gov/.

For 2017 in Ohio, Lawrence County is the only county with limits lower than the National non-metro limit. Within Kentucky there are several counties which may be able to take advantage of the national non-metro median. However, individual projects within these counties must still confirm their eligibility as rural projects at the web site above.

Please note that the eligibility of a property as "rural" needs to be confirmed each year. If the property is located in an area that is no longer considered rural on the effective date of the new income limits, then the property must begin using the MTSP limits instead of the national non-metro income limits.

Properties which Combine Tax Credits with Other Assistance Programs

HOME Income and Rent Limits

Since HUD has eliminated the "hold harmless" policy for Section 8, HOME income limits will also now be permitted to decrease. However, HOME rent limits will still be held harmless and will not be permitted to decrease. For the HOME program, this hold harmless policy on rents is incorporated into the published schedule of HOME rents. Owners need only follow the published schedule of HOME rents to take advantage of the hold harmless policy on HOME units. The HOME rent and income limits published by HUD must be utilized for any HOME unit.

The 2017 HOME limits are not available at the time of this writing. However, when they are available, they can be accessed at:

https://www.hudexchange.info/manage-a-program/home-income-limits/

and

https://www.hudexchange.info/manage-a-program/home-rent-limits/

Please note that when HOME and tax credits are combined in a project, the HOME income and rent limits are only applied to HOME-assisted (or HDAP-assisted) units. HOME income and rent limits do not need to be applied to all units within the project.

Project-Based Section 8, RD Rental Assistance, Public Housing

Properties that combine tax credits with other assistance programs (such as Project-Based Section 8 or Public Housing, etc.) must remember to use the most restrictive income limit applicable to the assisted unit. In general this would mean using the current income limit each year and not using the provisions of HERA that allow a project to use the highest income limit achieved since the project was placed in service.

Affordable Housing Program

The Affordable Housing Program (AHP) administered by the Federal Home Loan Bank does not allow the provisions of HERA which allow a project to continue to use the highest income and rent limit ever achieved since being placed in service. Therefore, all AHP units must use the current rent and income limits, even if that current limit represents a decrease from previous years.

Recordkeeping

Due to the level of complexity involved in determining the correct income limit to apply to a property, we recommend that owners and managers establish a file (similar to a utility allowance file), for each property documenting the income limit for each year. In addition to the published income limits for each year, this file might also contain documentation as to when the project was allocated credits, when each building was placed in service, whether the project elected to use the limits in effect at

Applying the New Income Limits to Specific Properties

To determine the income limits for a specific project, consult the attached 2017 Income Limit Applicability Chart. Please also keep in mind:

The income limits are applied on a PROJECT-WIDE basis, depending on how the project is defined based on the multiple building election on the 8609s. If question 8b on the 8609s indicated that a building was part of a multiple-building project, all of the buildings in that multiple-building project will use the income limit based on the date the first building was placed in service. If question 8b on the 8609s indicated the building was NOT part of a multiple building project (in other words it was set up as though each building is its own project), each building will use the income limit based on the date that particular building was placed in service.

If the project is located in a rural area (as defined by Rural Development at http://eligibility.sc.egov.usda.gov/), and the 2017 National Non-Metro limit is greater than the 2017 MTSP for the county, the project is also eligible to choose the greater of the National Non-Metro limit or the limit for the county.

Novogradac & Company has developed an excellent Rent and Income calculator which owners may wish to consult. The calculator will assist in determining the appropriate income and rent limits for a particular project and is available at http://novoco.com/products/rentincome.php.

Locating the MTSP Limits for Your State

Ohio - The income limits for Ohio are available at:

http://www.ohiohome.org/compliance/incomelimits.aspx

Kentucky – The Kentucky Housing Corporation no longer publishes income limits. Owners and managers can consult the Novogradac website listed above.

Indiana – The income limits for are available at:

http://www.in.gov/myihcda/rednotices.htm

Pennsylvania – The income limits were not available as of this writing. However, when they are released they will be available at:

http://www.phfa.org/mhp/propertymanagement/

West Virginia – The West Virginia Housing Development Fund does not publish income limits. Owners and managers can consult the Novogradac website listed above.

Annual Owner Certifications – Copies Due to OCCH

Annual Owner Certifications for 2016 were due to your state housing finance agency earlier this year. OCCH now needs to receive copies of the Certifications and tenant data that were submitted to the state housing finance agency.

For properties in Ohio, please remember that if you have granted Online Viewer status in DevCo to Melanie Shapiro, you do not need to submit a copy of the AOC to OCCH. However, if you have not granted Online Viewer status, copies of completed Annual Owner Certifications and tenant data need to be submitted to OCCH as soon as possible after submitting to OHFA.

For properties outside of Ohio, copies of completed Annual Owner Certifications, including tenant data, need to be submitted to OCCH as soon as possible after submitting to your state housing finance agency. Please submit copies to Compliance@occh.org.

If you have questions about these issues or other compliance matters, please don't hesitate to contact anyone on the Asset Management team at 614-224-8446.

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Income Limits Applicability Chart - 2017

Type of Project/Unit	Income Limit	Rent Limit
Mixed Finance Projects (LIHTC combined with another program) - must use the lower of the limits indicated below or:		
HOME unit	HOME	HOME
Project Based Section 8	Section 8	Section 8
AHP Unit (Affordable Housing Program from Federal Home Loan Bank)	Section 8	Section 8
RD Projects	USDA limits	USDA limits
LIHTC Projects		
Placed in Service* on or before 12/31/08	HERA Special Limit (if there is one for your county)	Based on income limit
Placed in Service* on or before 12/31/08	If no HERA Special limit for your county - use the higher of the income limit your project has been using or the 2017 "regular" limits	Based on income limit
Placed in service* on or after 1/1/09 and before 5/28/17	Higher of the income limit your project has been using or the 2017 "regular" limits	Higher of rent based on highest limit achieved since placed in service or limit in effect at gross rent floor election**
Placed in service *on or after 5/28/17	2017 MTSP	Higher of rent based on current income limit or limit in effect at gross rent floor election**
Rural Projects (**as defined and confirmed by USDA at http://eligibility.sc.egov.usda.gov/**). NOTE: The option to use the National Non-metro limit does not apply to rural bond projects or projects with Project Based Section 8 Assistance with a 50% income limit.***	Same as above, based on placed in service date, except can also choose greater of National Non-metro or limit indicated above	Same as above, based on placed in service date, except can also choose greater of National Non-metro or limit indicated above

*"Placed in service refers to the "project". Project is defined on the 8609s multiple building question. If multiple building = no, each building is its own project. If the 8609s have not been completed yet, **OCCH RECOMMENDS TAKING A MORE CONSERVATIVE APPROACH AND USING THE INCOME LIMIT BASED ON THE LAST BUILDING PLACED IN SERVICE.**

**The gross rent floor is based on the income limit in effect at the time of carryover for the project – unless the owner elects to establish the gross rent floor based on the income limit in effect at placed in service. If electing to use the limit at placed in service, the owner must make this election no later than the date the first building is placed in service.

***Eligibility as a "rural" project must be confirmed each year.