



# Acquisition/Rehab

An Understanding of Obtaining First Year Credits



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# INTRODUCTION



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- Property compliance consulting

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# PLACED-IN-SERVICE DATE

- For purposes of Section 42 of the Internal Revenue Code, the term “Placed-In-Service” (PIS) has two definitions.
  - NOTE: There will be 2 PIS dates for an Acq/Rehab project.



# PLACED-IN-SERVICE DATE: ACQUISITION

- Acquired (Existing) Building: PIS is the date the building is acquired by the new owner assuming it is occupied or “suitable for occupancy.”



# PLACED-IN-SERVICE DATE: REHABILITATION

- Rehab PIS Date is the date construction is complete.



# GENERATING TAX CREDITS

**The owner's 10-year credit period must be the same for both the acquisition and rehab credits.**

**If the Rehab is completed in the same year the building is acquired (acquisition), the credit period can begin the same year.**

**If the Rehab is completed the year following acquisition, the credit period will begin the year rehab is completed.**





# GENERATING TAX CREDITS: EXAMPLE

- Date of Acquisition: 2/1/21
- Rehab completed during 2021
- Initial tenant certifications completed 10/15/20 through 2/1/21.
- Acq/Rehab credits begin generating as of 2/1/21.

**OR**

- Date of Acquisition: 2/1/21
- Rehab completed during 2022
- Initial tenant certs completed, and safe harbor testing completed 9/3/2021 – 12/31/21.
- Acq/Rehab credits begin generating 1/1/22.



# CLAIMING THE TAX CREDITS

Form **8609**  
(Rev. December 2021)  
Department of the Treasury  
Internal Revenue Service

**Low-Income Housing Credit Allocation and Certification**

OMB No. 1545-0988

Go to [www.irs.gov/Form8609](http://www.irs.gov/Form8609) for instructions and the latest information.

**Part I Allocation of Credit**

Check if:  Addition to Qualified Basis  Amended Form

**A** Address of building (do not use P.O. box) (see instructions)

**B** Name and address of housing credit agency

**C** Name, address, and TIN of building owner receiving allocation

**D** Employer identification number of agency

**E** Building identification number (BIN)

TIN ▶

**1a** Date of allocation ▶ ..... **b** Maximum housing credit dollar amount allowable . . . . . **1b** \_\_\_\_\_

**2** Maximum applicable credit percentage allowable (see instructions) . . . . . **2** \_\_\_\_\_ %

**3a** Maximum qualified basis . . . . . **3a** \_\_\_\_\_

**b** Check here ▶  if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions) . . . . . **3b** 1 \_\_\_\_\_ %

**4** Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-) . . . . . **4** \_\_\_\_\_ %

**5a** Date building placed in service . . . . . ▶

**b** Check here ▶  if the date of allocation on line 1a is in calendar year 2021 or 2022 and the building is located in a qualified disaster zone (see instructions).

**6** Check the boxes that describe the allocation for the building (check those that apply):

**a**  Newly constructed and federally subsidized **b**  Newly constructed and **not** federally subsidized **c**  Existing building

**d**  Sec. 42(e) rehabilitation expenditures federally subsidized **e**  Sec. 42(e) rehabilitation expenditures **not** federally subsidized

**f**  Allocation subject to nonprofit set-aside under sec. 42(h)(5)

**Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only**

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official Name (please type or print) Date

**Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period**

**7** Eligible basis of building (see instructions) . . . . . **7** \_\_\_\_\_

**8a** Original qualified basis of the building at close of first year of credit period . . . . . **8a** \_\_\_\_\_

**b** Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? . . . . .  Yes  No

**9a** If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(f)(2)(B)?  Yes  No

**b** For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)? . . . . .  Yes  No

**10** Check the appropriate box for each election.

**Caution:** Once made, the following elections are irrevocable.

**a** Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶  Yes  No

**b** Elect **not** to treat large partnership as taxpayer (section 42(j)(5)) . . . . . ▶  Yes

**c** Elect minimum set-aside requirement (section 42(g)) (see instructions):

20-50  40-60  Average income  25-60 (N.Y.C. only)

**d** Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) . . . . .  15-40

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature Taxpayer identification number Date

Name (please type or print) First year of the credit period

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63981U Form **8609** (Rev. 12-2021)



# CRITICAL FACTORS

- For the first-year credit calculations, it is critical to have an accurate count of the initial household qualification to obtain credits on the unit.
- The speed of leasing up units has an impact on adjustments to equity.



# QUALIFYING RESIDENTS

Owner/Manager will need to implement a plan to certify EXISTING households (HH).

May begin verifying for LIHTC eligibility up to 120 days prior to the date of Acquisition. Keep in mind, closing dates are sometimes delayed and the true Effective Date of the TIC cannot be prior to the actual Acquisition (PIS) Date.

IRS allows for certification for existing HH's to be completed up to 120 days **AFTER** the date of Acquisition.



# QUALIFYING RESIDENTS

- Existing Households
  - Households occupying units on date of Acquisition

Initial tenant income certification is completed within 120 days before or after date of Acquisition, use the income limits in effect on the day of Acquisition.

Effective Date of the Initial Certification is the Acquisition Date (PIS date).

If income certification is not completed for an existing HH within the 120-day timeframe, HH is treated as a new move-in and income limits and effective date of TIC are the limits in effect on the date last adult member signs TIC.



# QUALIFYING RESIDENTS

- **New Households**
  - Households moving in after Acquisition

**Effective Date of the Initial Certification is the new HH's Move-In date.**

**All information must be dated 120 days prior to or as of the TIC Effective/Move-In Date.**

**Income limits used are the income limits effective the date of move-in.**



# QUALIFYING RESIDENTS

- Rehab Completed Year Following Acquisition

Credits may be generated beginning January 1 of the year rehab is finished.

All initial income certifications must be within 120 days of when the credit period starts (January 1).

HH's certified prior to September 3 of the Rehab year will need to utilize the "Safe Harbor Rule".



# QUALIFYING RESIDENTS

## ■ Safe Harbor Rule

The IRS created the Safe Harbor Rule to allow owners to use existing tenants as tax credit qualified in the event a HH was income eligible at acquisition; but, went over the income limit during rehab, before credits were initiated.

This test is unique to Acq/Rehab projects and tests for purposes of the Next Available Unit Rule within 120 days prior to the start of the credit period.





# QUALIFYING RESIDENTS

## ■ Safe Harbor Rule (cont'd)

The Safe Harbor test involves inquiring with HH's certified prior to 120 days of the beginning of the credit period that sources and amounts of anticipated income on the tenant's original certification are still current.

HH's certified before September 3 in the year before claiming credits will need to be recertified.

Check with the state HFA on their requirements for Safe Harbor testing.

Certifications completed after September 3 will meet this requirement.



# QUALIFYING RESIDENTS

## ■ Safe Harbor Rule: Example

First year of credit period for rehab is 1/1/2020.

HH income was certified on 11/23/19, testing is not required since cert was completed within 120 days of 1/1/20.

HH income was certified 4/12/19. HH needs to be tested for purposes of the Next Available Unit Rule within 120 days prior to 1/1/20.



# QUALIFYING RESIDENTS EXISTING LIHTC PROPERTY

- Property is a LIHTC project in years 16-30, under an Extended Use Agreement, and receives a new allocation of credits.
- All existing HH's must be certified to ensure they qualify under the new allocation.
- HH's that were qualified at their original move-in, or at the most recent annual recertification on record not a self (aka Alternate) certification, may stay in place if they are now over-income, as long as, the original move-in file or most recent full annual recertification (TIC & back up documentation), showing household was income eligible, are on file and the Next Available Unit Rule is followed.



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# TRACKING HOUSEHOLDS & UNITS

- (Following examples are assuming January as the month property was Placed-In-Service and Acquisition & Rehab are all completed in the same year.)

A unit must be qualified in order to earn tax credits; therefore, it is imperative that a good tracking system is set up during rehab to follow the flow of the first-year tax credits.

| Unit | JAN  | FEB  | MAR  | APR  | MAY  | JUN  | JUL  | AUG  | SEP  | OCT  | NOV  | DEC  |
|------|------|------|------|------|------|------|------|------|------|------|------|------|
| 101  | Amy  | Amy  | Amy  | Amy  | Amy  | NQ   | NQ   | QV   | QV   | QV   | QV   | QV   |
| 102  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Beth | Beth | Beth | Beth | Beth |
| 103  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Curt | Curt | Curt | Curt | Curt |
| 104  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Doug | Doug | Doug | Doug | Doug |
| 105  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Eve  | Eve  | Eve  | Eve  | Eve  |
| 106  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Flo  | Flo  | Flo  | Flo  | Flo  |
| 107  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | NQ   | NQ   | Gary | Gary | Gary |
| 108  | NQ   | NQ   | Gary | Gary | Gary | Gary | Gary | Gary | Gary | NQ   | NQ   | Hal  |
| 109  | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | NQ   | Izzy | Izzy | Izzy |
| 110  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | NQ   | Jan  | Jan  | Jan  |

NQ = Non-qualified

QV=Qualified Vacant



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# TRACKING HOUSEHOLDS & UNITS

- **Unit #101: Occupied at Acquisition.**
- It is determined that the household (Amy) is qualified within 120 days of Acquisition.
- She moves out in June and owner starts rehabilitating unit immediately and finishes the rehab in August.
- Owner may include the unit in the Applicable Fraction from January to May because it was occupied by a qualified household, and it may be counted in August to December as a vacant qualified unit as long as the owner satisfies the requirements of the Next Available Unit Rule.
- The reason it cannot be qualified in June & July is because it was undergoing rehab and was not available for occupancy.



# Unit #101

| Unit       | JAN        | FEB        | MAR        | APR        | MAY        | JUN       | JUL       | AUG       | SEP       | OCT       | NOV       | DEC       |
|------------|------------|------------|------------|------------|------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| <b>101</b> | <b>Amy</b> | <b>Amy</b> | <b>Amy</b> | <b>Amy</b> | <b>Amy</b> | <b>NQ</b> | <b>NQ</b> | <b>QV</b> | <b>QV</b> | <b>QV</b> | <b>QV</b> | <b>QV</b> |
| <b>102</b> | NQ         | NQ         | NQ         | NQ         | NQ         | NQ        | NQ        | Beth      | Beth      | Beth      | Beth      | Beth      |
| <b>103</b> | NQ         | NQ         | NQ         | NQ         | NQ         | NQ        | NQ        | Curt      | Curt      | Curt      | Curt      | Curt      |
| <b>104</b> | NQ         | NQ         | NQ         | NQ         | NQ         | NQ        | NQ        | Doug      | Doug      | Doug      | Doug      | Doug      |
| <b>105</b> | NQ         | NQ         | NQ         | NQ         | NQ         | NQ        | NQ        | Eve       | Eve       | Eve       | Eve       | Eve       |
| <b>106</b> | NQ         | NQ         | NQ         | NQ         | NQ         | NQ        | NQ        | Flo       | Flo       | Flo       | Flo       | Flo       |
| <b>107</b> | Flo        | Flo        | Flo        | Flo        | Flo        | Flo       | Flo       | NQ        | NQ        | Gary      | Gary      | Gary      |
| <b>108</b> | NQ         | NQ         | Gary       | Gary       | Gary       | Gary      | Gary      | Gary      | Gary      | NQ        | NQ        | Hal       |
| <b>109</b> | Izzy       | Izzy       | Izzy       | Izzy       | Izzy       | Izzy      | Izzy      | Izzy      | NQ        | Izzy      | Izzy      | Izzy      |
| <b>110</b> | Jan        | Jan        | Jan        | Jan        | Jan        | Jan       | Jan       | Jan       | NQ        | Jan       | Jan       | Jan       |

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# TRACKING HOUSEHOLDS & UNITS

- **Units 102 – 106: Occupied at Acquisition.**
- It was determined that these households were over the income limit.
- The non-qualifying households all moved out in February and March. After each household moved out, the owner began rehabilitating the vacant units. The owner finished rehabilitating the units in July.
- Rehabilitated units 102, 103, 104, and 105 were rented to income qualified families in August (Beth, Curt, Doug, Eve). During August the existing income qualified tenant in unit 107 (Flo) transferred to unit #106.
- The owner may include units 102-106 in the Applicable Fraction for August through December.



# Unit #102-106

| Unit | JAN  | FEB  | MAR  | APR  | MAY  | JUN  | JUL  | AUG  | SEP  | OCT  | NOV  | DEC  |
|------|------|------|------|------|------|------|------|------|------|------|------|------|
| 101  | Amy  | Amy  | Amy  | Amy  | Amy  | NQ   | NQ   | QV   | QV   | QV   | QV   | QV   |
| 102  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Beth | Beth | Beth | Beth | Beth |
| 103  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Curt | Curt | Curt | Curt | Curt |
| 104  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Doug | Doug | Doug | Doug | Doug |
| 105  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Eve  | Eve  | Eve  | Eve  | Eve  |
| 106  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Flo  | Flo  | Flo  | Flo  | Flo  |
| 107  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | NQ   | NQ   | Gary | Gary | Gary |
| 108  | NQ   | NQ   | Gary | Gary | Gary | Gary | Gary | Gary | Gary | NQ   | NQ   | Hal  |
| 109  | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | NQ   | Izzy | Izzy | Izzy |
| 110  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | NQ   | Jan  | Jan  | Jan  |

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# TRACKING HOUSEHOLDS & UNITS

- **Unit 107: Occupied at Acquisition.**
- Flo is income qualified within 120 days of Acquisition. During August the tenant transferred to Unit #106, which was vacant and never a qualified unit.
- Unit 107 is rehabilitated during August and September.
- In October, the household from Unit 108 (Gary) transfers to Unit 107.
- Unit #107 may be included in the Applicable Fraction for January through July and October through December.



# Unit #107

| Unit | JAN        | FEB        | MAR        | APR        | MAY        | JUN        | JUL        | AUG       | SEP       | OCT         | NOV         | DEC         |
|------|------------|------------|------------|------------|------------|------------|------------|-----------|-----------|-------------|-------------|-------------|
| 101  | Amy        | Amy        | Amy        | Amy        | Amy        | NQ         | NQ         | QV        | QV        | QV          | QV          | QV          |
| 102  | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | Beth      | Beth      | Beth        | Beth        | Beth        |
| 103  | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | Curt      | Curt      | Curt        | Curt        | Curt        |
| 104  | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | Doug      | Doug      | Doug        | Doug        | Doug        |
| 105  | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | Eve       | Eve       | Eve         | Eve         | Eve         |
| 106  | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | NQ         | Flo       | Flo       | Flo         | Flo         | Flo         |
| 107  | <b>Flo</b> | <b>Flo</b> | <b>Flo</b> | <b>Flo</b> | <b>Flo</b> | <b>Flo</b> | <b>Flo</b> | <b>NQ</b> | <b>NQ</b> | <b>Gary</b> | <b>Gary</b> | <b>Gary</b> |
| 108  | NQ         | NQ         | Gary       | Gary       | Gary       | Gary       | Gary       | Gary      | Gary      | NQ          | NQ          | Hal         |
| 109  | Izzy       | Izzy       | Izzy       | Izzy       | Izzy       | Izzy       | Izzy       | Izzy      | NQ        | Izzy        | Izzy        | Izzy        |
| 110  | Jan        | Jan        | Jan        | Jan        | Jan        | Jan        | Jan        | Jan       | NQ        | Jan         | Jan         | Jan         |

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# TRACKING HOUSEHOLDS & UNITS

- **Unit #108: Vacant at Acquisition.**
- A new household (Gary) moves into the unit in March and is income certified before move-in.
- Gary transfers from Unit 108 to Unit 107 in October and takes the status of the previous unit with him to the new unit.
- Unit 108 is rehabilitated in October and November. Unit may not be counted in the Applicable Fraction during these months.
- A new household (Hal) is income qualified and moves into 108 in December.
- Unit may be counted in the Applicable Fraction March through September and in December.



# Unit #108

| Unit | JAN  | FEB  | MAR  | APR  | MAY  | JUN  | JUL  | AUG  | SEP  | OCT  | NOV  | DEC  |
|------|------|------|------|------|------|------|------|------|------|------|------|------|
| 101  | Amy  | Amy  | Amy  | Amy  | Amy  | NQ   | NQ   | QV   | QV   | QV   | QV   | QV   |
| 102  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Beth | Beth | Beth | Beth | Beth |
| 103  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Curt | Curt | Curt | Curt | Curt |
| 104  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Doug | Doug | Doug | Doug | Doug |
| 105  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Eve  | Eve  | Eve  | Eve  | Eve  |
| 106  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Flo  | Flo  | Flo  | Flo  | Flo  |
| 107  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | NQ   | NQ   | Gary | Gary | Gary |
| 108  | NQ   | NQ   | Gary | Gary | Gary | Gary | Gary | Gary | Gary | NQ   | NQ   | Hal  |
| 109  | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | NQ   | Izzy | Izzy | Izzy |
| 110  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | NQ   | Jan  | Jan  | Jan  |

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# TRACKING HOUSEHOLDS & UNITS

- **Units 109 and 110: Occupied at Acquisition.**
- Household Izzy and Household Jan are income qualified within 120 days of Acquisition.
- To expedite completion of the rehab, the owner temporarily relocates these households in off-site quarters and started rehabilitation of 109 and 110 in September.
- Both households moved back into their original units in October. These units may be included in the Applicable Fraction for January through August and October through December.



# Unit #109-110

| Unit | JAN  | FEB  | MAR  | APR  | MAY  | JUN  | JUL  | AUG  | SEP  | OCT  | NOV  | DEC  |
|------|------|------|------|------|------|------|------|------|------|------|------|------|
| 101  | Amy  | Amy  | Amy  | Amy  | Amy  | NQ   | NQ   | QV   | QV   | QV   | QV   | QV   |
| 102  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Beth | Beth | Beth | Beth | Beth |
| 103  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Curt | Curt | Curt | Curt | Curt |
| 104  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Doug | Doug | Doug | Doug | Doug |
| 105  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Eve  | Eve  | Eve  | Eve  | Eve  |
| 106  | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | NQ   | Flo  | Flo  | Flo  | Flo  | Flo  |
| 107  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | Flo  | NQ   | NQ   | Gary | Gary | Gary |
| 108  | NQ   | NQ   | Gary | Gary | Gary | Gary | Gary | Gary | Gary | NQ   | NQ   | Hal  |
| 109  | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | Izzy | NQ   | Izzy | Izzy | Izzy |
| 110  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | Jan  | NQ   | Jan  | Jan  | Jan  |

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# QUESTIONS?



- Thank you for attending!
  - Visit [mlcm.net](http://mlcm.net)



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