



## **LIHTC Rent Requirements**

*By Anne Smithen, CPO, Tax Credits Business Analyst*

Rent restriction is one of the key requirements of the Internal Revenue Code Section 42 low-income housing tax credit (LIHTC) program. In order to meet the goal of providing housing to low-income households, the total rent paid by households occupying tax credit-qualified units cannot be more than 30 percent of the applicable income limit for a project's minimum set-aside (50 percent or 60 percent). This total rent amount also includes a utility allowance for households responsible for paying utilities (other than telephone and cable).

### Calculating the Tax Credit Rent

The rules for calculating the maximum allowable rent for the LIHTC program depends on when a project was allocated tax credits. These rules are defined in Internal Revenue Code § 42 (g) (2) (C).

#### *Post-1989 Allocations*

The maximum rent for the majority of units in tax credit properties is computed using the post-1989 or unit size method. The gross rent (tenant paid amount plus any utility allowance if applicable and other non-optional fees) cannot be more than 30 percent of the imputed income limit. The income limit amount is based on the number of bedrooms in a unit and an "imputed" household size. Each bedroom in a unit is treated as being occupied by 1.5 persons. Efficiency and studio-type units are assumed to be occupied by one person. When the imputed household size is a fraction, for example 1.5 for a 1-bedroom unit, the average income limit is used.

The monthly rent for a 1-bedroom unit on a property with the 40 percent of units at 60 percent of median income is computed as follows:

$$\begin{aligned} &\text{Imputed household size: } 1 \text{ bedroom} \times 1.5 = 1.5 \\ &1\text{-person income limit at } 60\% \text{ of median income} = \$10,000 \\ &2\text{-person income limit at } 60\% \text{ of median income} = \$14,000 \\ &\text{Imputed income limit: } \$10,000 + \$14,000 = \$24,000 / 2 = \$12,000 \\ &\text{Monthly maximum rent} = \$12,000 * .30 = \$3,600 / 12 = \$300 \end{aligned}$$

#### *Pre-1990 Allocations*

The maximum rent for units in properties that received tax credit allocations in 1987, 1988, or 1989 is based on the number of household members. To compute the rent using the pre-1990 method, simply find the applicable income limit for the number of members, multiply by 30 percent, and divide by 12 to compute the monthly rent.



A one-time election to use the post-1989 unit size method was available to these properties in 1993 and 1994.

### LIHTC Rent and Rental Assistance

Rental assistance received by a household is not included in the gross unit rent (the total of the tenant paid amount, utility allowance, and any non-optional fees). As long as the gross rent amount is not more than the LIHTC maximum rent for the unit, the rent restriction requirement is satisfied.

A household may have to choose between paying the LIHTC rent and keeping the rental assistance if its income rises above the level that causes the share of the rent to be more than the maximum rent.

If the rent limit for the rental assistance program is more than the LIHTC maximum rent, the total unit rent can be increased. For example, if the HUD fair market rent (FMR) for a unit receiving rental assistance is more than the tax credit rent, the unit rent can be raised to the FMR. The household will pay an amount that does not violate the rental assistance rules as well as the tax credit maximum rent restriction, and the difference will be paid through the rental assistance program.