Notes on IRS Guide for Completing Form 8823

At the January 2007 HFA Institute sponsored by the National Council of State Housing Agencies, the IRS issued the Guide for Completing Form 8823: Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition. The purpose of the guide is to provide standardized operational definitions for the noncompliance categories listed on Form 8823. It is the IRS' intent that this guide will encourage consistent interpretation and application of the LIHTC requirements.

The IRS has said that the guide does not represent a new ruling on any issue, but is a discussion of the current rules for program. The guide is more than 100 pages in twenty-six chapters. There is important information for everyone who works with the program including developers, syndicators, asset managers, property managers and of course, the state agencies. To help deal with the volume of material the IRS presents, I've pulled points from the guide that I believe:

> Represent a change in the way the industry will be applying an IRS ruling;
>
> Provide a significant clarification of an IRS position on a particular issue;
>
> Answer a question typically answered by the state agencies in the past; or
>
> Represent an IRS position not always known or understood.

I've organized the information by chapter so you can refer back to the guide on points of particular interest. If I can be of additional help, you'll find my contact information at the end.

Chapter One – Introduction

- If an owner corrects an incidence of noncompliance within three years after the end of the correction period, the state agency must file Form 8823 reporting the owner back in compliance.

- The Senior Program Analyst for the tax credit program evaluates the 8823 forms the IRS receives to determine where an audit is warranted. Her decision to order an audit is made without regard for any "back in compliance" 8823s submitted by a state agency.

- It is worth an owner's effort to contest a notification of noncompliance from a state agency. The IRS tells state agencies not to submit Form 8823 when they find themselves in error in issuing a notice of noncompliance to an owner.

Chapter Two – Instructions for Completing Form 8823

- An owner must correct all instances of noncompliance for a specific category before the building is considered back in compliance for that category.

- An owner must resolve all categories of noncompliance cited on Form 8823 before the state agency can report the building back in compliance.

- The IRS instructs state agencies to report any change in a building's eligible basis or applicable fraction. Not all of the state agencies have been reporting a change in a building's eligible basis or applicable fraction to the IRS. They will need to change their monitoring practices.

Chapter Three – Guidelines for Determining Noncompliance

- It is worth an owner's efforts to establish an effective quality control system. The IRS instructs state agencies not to submit Form 8823 when an owner finds and corrects an incidence of noncompliance before receiving notice from a state agency of an upcoming monitoring review.

- Owners may use electronic systems to store records demonstrating compliance with Section 42 if they satisfy the requirements of IRS Revenue Procedure 97-22.

- The IRS says state agencies may allow owners to reconstruct records when the situation warrants, consider incomplete or imperfect documentation, and accept credible oral testimony to determine the owner's overall compliance with the requirements of Section 42.

Chapter Four – Category 11a – Household Income above Income Limit upon Initial Occupancy

- Under the terms of an extended use agreement, an owner may agree to qualify residents for some of the low income units at an income limit that is lower than the income limit in the minimum set aside. The IRS tells state agencies to enforce these agreements but not to report an owner's failure to comply or submit Form 8823.

- The IRS instructs state agencies to accept a certification submitted by a woman stating she is pregnant. This is the practice established in the HUD Handbook 4350.3 but some state agencies and owners have been nervous about allowing a woman to document her own pregnancy. The IRS makes it clear that is the practice they expect owners to follow.

Changes in Family Size

- There has long been a question about the continued eligibility of a tenant if they add new household members. The states have taken a variety of positions on this issue. The IRS has found a practical solution to the problem that allows an owner to approve reasonable additions to tenant households while maintaining the low income occupancy needed to justify their tax credit.

- When approving the addition of a new household member, an owner must complete an income certification for the new person. The owner adds the new member's income to the annual income calculated on the household's most recent income certification. The owner may continue to count the unit as a low-income unit and must include the new member, and their income, when testing the family's income for the 140% rule. If the new member's income pushes the family's income over 140% of the income limit, the owner must comply with the Available Unit Rule.

- A tenant may continue to add members as long one member of the original low income household continues to live in the unit. Once all the original household members vacate the unit, the remaining tenants must be certified as a new income-qualified household unless the remaining tenants were income qualified at the time they moved into the unit.

- The IRS instructs state agencies to look for patterns of tenants manipulating the income limit requirements by adding household members soon after their initial certification.

Determining Annual Income

- A temporarily absent family member on active military duty must be removed from the family and his or her income must not be included in the computation of household income, unless that person is the head of the household, spouse or co-head. This is the practice established in the HUD handbook but there had been confusion if it applied to tax credit properties.

- A self employed person can annualize their income for the current year based on the income they have generated year-to-date. An owner can ask a self employed person to complete a schedule C based on current year activity.

- For pensions and trusts, benefit letters or annual statements prepared by third parties are sufficient documentation. Verification may also include bank statements noting the transfers of cash.

Tenant Income Certification Effective Date

- The effective date of a tenant's income certification is the date the tenant moves into the unit. The owner should require all adult household members to sign the certification and document the file when it is impossible to obtain a member's signature. If the certification is more than 120 days old, the tenant must provide a new certification for the unit to be in compliance.

- The owner must recertify a resident annually within 120 days prior to their effective date.

Example: A tenant took occupancy o 5/15/04. The owner must recertify the resident annually within 120 days prior to 5/15..

- The certification's effective date remains unchanged by the addition of new household members.

Transfers – Within the Same Building

- When a household moves within the same building, the newly occupied unit adopts the status of the vacated unit. The vacated unit assumes the status the newly occupied unit had immediately prior to the transfer.

Transfers – To a Different Building

- Yes, the IRS approved transfers between buildings. So long as a household's income is not more than 140% of their current income limit, (170% in deep rent skew projects) they can transfer to another building at the same property. A building is part of a property as defined on Line 8b of its IRS Form 8609. They take their tax credit status, their lease, income certification, including its effective date, to their new unit. Their old unit assumes the status of their new unit just prior to the transfer. Like when a tenant transfers within a building, the two units involved in the transfer swap their status.

Income Certifications Where Owner Acquires or Rehabilitates Existing Building

- Good news! The IRS has taken a generous approach regarding the steps an owner must take to initiate the tax credits at an existing property.

- Previously, the IRS has said that
  - The credits are in service from the date of acquisition;
  - The ten year credit period must be the same for both the acquisition and the rehab credits;
  - An owner calculates the first year applicable fraction the same for both the acquisition and the rehab credits;
  - A building may begin to generate credits at acquisition if the owner begins the credit period the same year. (Remember that a unit must be in service a full calendar month before it can generate a tax credit.)
  - When an owner completes the rehab a year other than the year of acquisition, a building can begin to generate credits in January of the year the rehab is complete.
- This information has been very helpful but, within the industry, there have been varying interpretations as to how it applies. In the guide, the IRS answers several questions for owners on how to initiate the credits at an acquisition/rehab property.
  - Question One: Does an owner need to complete the income certifications for the existing residents before or on the date of acquisition to start generating credits at acquisition?
    - Answer One: No. If the owner completes the income certifications for the existing residents within 120 days after acquisition, using the income limits in effect on the date of acquisition, the effective date of the income certifications is the date of acquisition. The units can generate credits from the date of acquisition, assuming it has been in service a full calendar month. The owner verifies the tenant's income and student status as of the date of acquisition.
    - When completing the income certification for an existing tenant more than 120 days after acquisition, the owner treats the household as a new occupant. The owner uses the income limits in effect at the time of the income certification and the effective date is the date the last adult member sign the income certification.
  - Question Two: If an owner completes the income certifications for existing residents at acquisition but does not begin the credit period until the following year, can the units be treated as low-income units for the first year of the credit period?

- Answer Two: Yes, the income certifications the owner completes at acquisition can enable the building to begin generating credits the following year. The IRS cites Revenue Procedure 2003-82.

  - If the owner completed the initial income certification more than 120 days before the beginning of the credit period, the owner should test the family's income for the Available Unit Rule within 120 days before the credit period begins. The owner confers with the tenant on any income changes they have experienced and accepts their documentation. The IRS does not require the owner verify the information with a third party. If the resident's income is now more than 140% of their income limit, (170% in a deep rent skew project), the owner implements the Available Unit Rule.

  - If the owner completed the initial income certification within 120 days before the beginning of the first year of the credit period, the owner does not need to test the tenant's income for the Available Unit Rule at the beginning of the credit period.

- This requirement should only impact operations in mixed-income tax credit buildings. In 100% tax credit buildings, the owner always rents an available unit to a tax credit eligible resident.

- Question Three: In a building with rehabilitation credits, can a unit generate a tax credit before the owner completes the rehab?

  - Answer Three: Yes! The IRS says that a unit can generate a credit for an owner before the owner completes the rehab. The IRS considers the following units to be low-income units eligible to generate a tax credit.

    - Units occupied before the beginning of the credit period and tested for the Available Unit Rule as discussed above;

    - Units initially occupied after the beginning of the credit period by income-qualified households, regardless of whether the owner has incurred rehabilitation costs for the unit;

    - Units occupied by income-qualified households that moved from other units within the project. The household's lease and income certification, including the effective date, move with the household. And,

    - Vacant units that are suitable for occupancy and were previously occupied by an income-qualified household, regardless of whether rehabilitation costs have been incurred.

  - The IRS does not consider the following units to be low income units so they are not eligible to generate a tax credit:

    - Units occupied by non-qualified households;

    - Vacant units last occupied by non-qualified households;

    - Units not suitable for occupancy, including units being rehabilitated. Noncompliance is corrected when the unit is again suitable for occupancy.

  - When placed back in service following a rehab, a unit's status is determined based on the household that occupied it just prior to being taken out of service. If the unit was occupied by an income-qualified tenant just prior to the rehab, it will be considered a low-income unit and eligible to generate credits.

Documentation Requirements

- A tenant income certification is incomplete without the following documents:

  - An application including an income and asset questionnaire;

  - Verifications of income and assets that are no older than *120 days* on the effective date;

  - Verification of student status as applicable; and

  - A tenant income certification signed by all adult household members prior to move-in and at the time of every annual recertification.

- State agencies are instructed not to submit Form 8823 when an owner has assembled documentation that is imperfect but still sufficient to demonstrate the tenant's eligibility.

- There is no noncompliance if the state agency determines that an owner used due diligence in accepting a household as qualified for the tax credit program. For example, asking a person to certify they do not intend to seek employment in the coming year shows due diligence that will help protect the tax credit if the resident later takes a job.

Out of Compliance

- A unit is out of compliance on the date an ineligible household moves in. A unit is not back into compliance until an income-qualified household occupies the unit.

- If an owner fails to complete an income certification prior to allowing a household to occupy a low-income unit, assuming the household is eligible, the owner has two options for correcting the noncompliance:

  - The owner can perform a new certification using current income and asset sources and the current income limits. Assuming the household is eligible, the unit is out of compliance on the date of move-in and back in compliance on the date the new certification is signed by the last adult household member; or

  - The owner can perform a retroactive certification which documents the tenant's income, assets, student status and income limit in place at initial occupancy. There is no noncompliance and the state agency should not submit Form 8823.

- A waiver from completing recertifications can be revoked if the agency finds an owner in serious noncompliance in completing their initial certifications.

Chapter Five – Owner Failed to Correctly Complete or Document Tenant's Annual Income Recertification

- The IRS instructs owners to establish the effective date for a tenant's initial certification as the date they move into their unit. An owner must recertify a tax credit annually within 120 days prior to their effective date. Many state agencies have simply required that owners recertify their low income tenants "at least annually."

- Many HUD-assisted properties are refinanced using low income housing tax credits. The owner certifies the existing residents eligible for the tax credit program at the time of acquisition to initiate the tax credits. The residents already have a recertification anniversary date to comply with HUD requirements. An owner putting tax credits on a HUD property should ask approval from the state agency to complete their tax credit recertifications when they complete their recertifications for their HUD program to avoid needing to do two recertifications in a year for any of their residents.

- The IRS considers a unit in compliance If a tenant vacates a unit after receiving timely notice from the owner to report for a recertification. If a tenant gives an owner notice they are moving but does not vacate the unit, the owner must complete a recertification.

- The IRS instructs state agencies to review the initial certification for a resident when their income to be over the income limit at a recertification.

- The IRS instructs state agencies to determine whether an owner applied the Available Unit Rule when a household's income exceeds 140% of the income limit at a recertification. Not all state agencies have been requiring owners to document compliance. They will need to change their monitoring practices.

Chapter Six – Violations of the UPCS or Local Inspection Standards

- State agencies are required to report *any* incidents of noncompliance they discover. Incidents of noncompliance include inoperable smoke detectors and fire extinguishers. Some state agencies have not been reporting an inoperable smoke detector if the owner fixes it during the inspection. At the January 2007 HFA Institute, IRS officials stressed that state agencies must report all incidents of noncompliance, and that a violation of the state's physical inspection standards can be a trigger for an IRS audit.

Casualty Loss

- State agencies report a casualty loss that causes a unit to be unsuitable for occupancy as noncompliance with the state's inspection standards.

- A unit subject to a casualty loss is out of compliance as of the date it failed to meet the inspection standard employed by the state agency. It is back in compliance on the date the owner finishes making repairs, the date state officials conduct an inspection and see the repairs, or the date the owner certifies to completing the repairs, whichever meets the reporting requirement set by the state agency.

Chapter Seven – Owner Failed to Provide Annual Certifications or Provided Incomplete or Inaccurate Certification

- Nothing new or note worthy.

Chapter Eight – Changes in Eligible Basis

- State agencies must report any decrease in eligible basis to the IRS. Not all agencies have been monitoring for changes in basis. For example, an agency may not have noted that an owner charged parking rent and then confirmed that the owner did not include the parking lot in basis. They will need to change their monitoring practices.

- An owner may include a laundry room in basis but must exclude the cost of the laundry equipment if the residents must pay to use the equipment.

- An owner may include the cost of a model unit in the eligible basis and in the denominator of the applicable fraction for a building. An owner may not include a model unit in the numerator of the applicable fraction until occupied by a low income tenant.

Chapter Nine – Changes in the Applicable Percentage

- When a tax credit property receives a below-market rate HOME loan, the owner can benefit from 9% credits by committing to rent 40% of the units in every HOME-assisted building to tenants who qualify at the 50% of median income limit. The IRS clarifies that for the units meeting the 40% @ 50% set aside, the owner may charge the rent based on the tax credit minimum set aside. If electing the 40% @ 60% set aside, the owner may charge the rents calculated at 60% of median for the 40% @ 50% units. However, the HOME regulatory agreement may limit the owner to charging the low HOME rent for these units which is often less than the tax credit rent.

- A new building qualifies for 9% credits if the owner uses no federal subsidy, directly or indirectly, to develop or operate the building. If the owner uses a federal subsidy, the building is in compliance and qualifies for 9% credits if the owner elects to reduce the eligible basis for the building by the amount of the federal subsidy or redeems or pays the federal subsidy before placing the building in service.

- In general, a violation of the federal subsidy is a noncompliance event that cannot be corrected.

Chapter Ten – Project Failed to Meet Minimum Set Aside Requirement

- If an owner fails to meet the minimum set aside during the first year of the credit period, the noncompliance cannot be corrected. The owner is ineligible to take a low income housing tax credit.

- If an owner fails to meet the minimum set aside after the first year of the credit period, the project is back in compliance the taxable year in the compliance period the owner meets the minimum set aside.

Vacant Units

- A rental unit is considered qualified when the first qualified tenant moves in and continues to be eligible while vacant if the last household who occupied the unit was a low-income household. An owner may include a qualified vacant unit in the minimum set aside and the applicable fraction at the end of the first year of the credit period.

Chapter Eleven – Gross Rent(s) Exceed Tax Credit Limits

- The IRS says that fees an owner requires a tenant to pay for renter's insurance or a month-to-month tenancy must be included in maximum allowable rent.
- An owner cannot avoid loosing tax credits for collecting too much rent by refunding the extra amount mistakenly charged the tenants. (I always thought you could.)
- The guide confirms that the rent paid by a Section 8 tenant can exceed the maximum tax credit rent so long as the owner receives an assistance payment on their behalf. The IRS does not say that a tenant's contribution to rent cannot exceed the tax credit rent at initial occupancy. The guide includes an example of a unit "in compliance" that is housing a Section 8 tenant who begins paying more than the tax credit rent at initial occupancy.
- Rental assistance payments an owner receives for a resident from a state or local program that is comparable to Section 8 are not included in gross rent. An owner may collect revenue exceeding the maximum tax credit rent.

Chapter Twelve – Project not Available to the General Public

- Nothing new or note worthy.

Chapter Thirteen – Project not Available to the General Public – Notifications of Fair Housing Act Administrative and Legal Actions

- State agencies must report to the IRS the receipt of notices of Fair Housing Act administrative and legal action issued by HUD or the Department of Justice against the owner of a tax credit property.
- An adverse decision against the owner in a fair housing administrative or legal action will result in the loss of credits. Make sure your staff remains current on Federal, state and local fair housing requirements.

Chapter Fourteen – Violations of the Available Unit Rule

- There have always been questions as to what constitutes a comparable unit for the purposes of the Available Unit Rule. The rule tells owners to measure a comparable unit by the same method used to determine the applicable fraction the year the unit becomes available. For example, if the unit applicable fraction was used to calculate the qualified basis for the tax year, a comparable unit is one with the same number of bedrooms as the unit with the over-income tenant. The problem for owners has been the need to

identify a comparable unit and rent it to a tax credit tenant before the end of the year when they calculate the applicable fraction. The IRS says that an owner in this situation may consider a unit with similar square footage and amenities to be a comparable unit for purposes of the Available unit rule.

- A vacant unit maintains the status of its most recent tenant. When a household with income over 140% of the income limit vacates a unit, it is treated as an over-income unit and subject to the Available Unit Rule until the effective date of the income certification for a new tenant. If the owner rents a unit of comparable or smaller size to an ineligible tenant, the vacant unit stops generating credits. If the building's applicable fraction is sufficient without the vacant unit, there is no noncompliance.

- A unit occupied by an over-income household, returns to compliance if the household's income drops below 140% of the income limit. The tenant's income may drop below 140% of the income limit if they experience a decrease in income or there is an increase in the income limit.

- The IRS reminds the state agencies to check for other categories of noncompliance when an owner violates the Available Unit rule. For example, an owner can drop below the minimum set aside as a result of violating the Available Unit Rule. Remember that a violation of the Available Unit Rule causes all over-income units of comparable or larger size in the same building to stop generating credits during the period of noncompliance.

- The IRS reminds owners that violating the Available Unit Rule is non-correctible noncompliance. Correcting the noncompliance does not prevent an owner from loosing credits for the period of noncompliance.

Chapter Fifteen – Violation of the Vacant Unit Rule

- As long as an owner makes reasonable attempts to rent to qualified low income households, they may include vacant low income units in the minimum set aside and applicable fraction. What constitutes reasonable attempts to market the low income units is decided on a case by case basis.

- Comparable units are defined the same as for the Available Unit Rule.

- An owner is out of compliance when not making reasonable attempts to rent vacant low income units and instead rents units to ineligible tenants. When an owner violates the Vacant Unit Rule, all vacant units previously occupied by qualified households lose their low-income status and are not included in the minimum set aside or applicable fraction. The date of noncompliance is the date the *first low-income tenant* moved out of the now vacant units. If the first low income tenant moved out of one of the vacant units in 2003, an owner's vacant units stop generating credits retroactive to 2003.

- A state agency's responsibility for reviewing an owner's compliance with the Vacant Unit Rule must include a review of the owner's advertising practices. An owner needs to establish a file documenting the property's marketing efforts including copies of advertisements, letters reaching out to community organizations and communication with area housing authorities.

- Owners are required to maintain records that demonstrate to whom and when a unit was rented following another unit becoming vacant. Not all state agencies have been asking for this information. They will need to change their monitoring practices.

Chapter Sixteen – Owner Failed to Execute and Record Extended Use Agreement

- Nothing new or note worthy.

Chapter Seventeen – Low Income Units Occupied by Nonqualified Full-Time Students

- The IRS clarified several issues regarding the full-time student rule.

  - A full-time student attends school on a full-time basis for 5 months in the *calendar year*. Many state agencies have been defining a full-time student as someone attending school on a full-time basis for 5 of the 12 months following the effective date of their income certification. Those state agencies will need to change their monitoring practices.

  - A person need not attend school 5 *consecutive* months in the calendar year to be considered a full-time student.

  - An owner should verify the status of a student as either full-time or part-time with the educational institution they attend. Some state agencies have been defining a full-time student as a person who takes 12 credit hours. They will need to change their monitoring practices.

  - The IRS defines an educational organization as "one that normally maintains a regular facility and curriculum, and normally has an enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term educational organization includes elementary schools, junior and senior high schools, colleges, universities and technical, trade and mechanical schools. It does not include on-the-job training courses."

- Notice the IRS includes an elementary, junior or senior high school in the definition of an educational organization. Some state agencies have been excluding minors in grades K-12 from the definition of a full-time student. They will need to change their monitoring practices.

- A unit is out of compliance on the first day of the fifth month during a calendar year a full-time student attends school. If an owner discovers the noncompliance before the student's fifth month in school, they have the opportunity to correct the noncompliance before it jeopardizes the tax credit.

- There are questions left regarding the full-time student rule.

  - If a student attends 2 schools on a part-time basis, are they considered a full-time student? I think the answer is yes.

  - An unborn child is included in the family size for selecting the income limit. Can an unborn child qualify a household for the tax credit program if everyone else in the household is a full-time student? The IRS has said verbally that an unborn child can qualify a full-time student household.

- An owner should ask their state agency their position on these issues.

Chapter Eighteen – Owner did not Properly Calculate Utility Allowance

- For a building that is not regulated by either HUD or RD, the owner uses the PHA utility allowance for the voucher program, or the owner may obtain a consumption estimate from the local utility company. When choosing to obtain a utility company estimate, an owner must obtain an estimate for each building in a property. The estimate becomes the appropriate utility allowance for all rent-restricted units of similar size and construction in the building.

- In general, an owner's election to use a utility company estimate to calculate the utility allowance is permanent. But, the IRS has provided new guidance about how a state agency may allow an owner to calculate a utility allowance.

  - Because a utility company may be unwilling to provide an estimate on an ongoing basis, the IRS says they will not challenge an owner's return to using the PHA utility allowance if the owner demonstrates that the utility company was unwilling to provide an updated estimate and the owner has written approval to make the change from the state agency.

  - Because PHA utility allowances do not always reflect energy consumption at tax credit properties, an owner may calculate the utility allowance for the units in a building based on an average of the actual usage of similarly

constructed and sized units in the building using actual consumption data and rates. An owner must have state agency approval to use this method.

- When calculating the utility allowance based on the expected or historical usage in the tax credits units, the owner must be able to justify the calculations with supporting documentation meeting the standard set by the state agency.

- At the January 2007 HFA Institute, IRS officials announced that it is in their work plan to issue a new, proposed rule for how an owner calculates the utility allowance by the end of their fiscal year on June 30, 2007. They will issue a proposed rule for comment by the industry, and they hope to issue a new final rule on the utility allowance in the not-so-distant future. In the interim, state agencies are to follow the instruction provided in the guide.

Chapter Nineteen – Owner has Failed to Respond to Agency Requests for Monitoring Reviews

- A state agency may remove a property from the program if the owner fails to respond to repeated requests for cooperation with a monitoring review.

Chapter Twenty – Low-Income Units Used on a Transient Basis

- Nothing new or note worthy.

Chapter Twenty-One – Project is No Longer in Compliance nor Participating in the Program

- Nothing new or note worthy.

Chapter Twenty-Two – Qualified Nonprofit Organization Failed to Materially Participate

- Nothing new or note worthy.

Chapter Twenty-Three – Other Noncompliance Issues

- State agencies may insert paragraphs into an extended use agreement that reflect the terms under which an owner was awarded a credit allocation. For example, in the tax credit application, an owner may have committed to charging a lower rent than calculated using the income limit in the minimum set aside. State agencies are expected to enforce the terms of an extended use agreement but not to report noncompliance on Form 8823.

Chapter Twenty-Four – Building Disposition

- Nothing new or note worthy.

Chapter Twenty-Five – Miscellaneous Noncompliance Topics

- The IRS does not want to take tax credits from an owner who practices due diligence to prevent fraud.

- An owner should immediately report any suspected fraud by a tenant to the state agency to avoid the loss of credits. The IRS tells state agencies not to report tenant fraud on Form 8823 if the owner

  - Found and addressed the fraud prior to receiving notice of a monitoring review;

  - Satisfied the state agency that the tenant provided false information;

  - Did everything reasonable to prevent fraud;

  - Has implemented changes to prevent similar fraud in the future;

  - Evicted the tenant, if possible; and

  - Does not have a pattern of admitting fraudulent tenants to tax credit units.

- State agencies are instructed to report any fraud they discover during a monitoring review on Form 8823.

- The IRS provides the following suggestions an owner can follow to demonstrate due diligence in fighting fraud:

  - Ask a tenant to complete Form 8821 allowing the owner to confirm the accuracy of the tenant's tax returns with the IRS;

  - Pursue an eviction or charge market rent, (not in a100% tax credit property), when discovering a tenant has committed fraud; and

  - Report any suspected or known deliberate misrepresentations of income to the IRS Suspected Tax Fraud Hotline at 1-800-829-0433.

Chapter Twenty-Six – Tenant Good Cause Eviction and Rent Increase Protection

- Nothing new or note worthy.

Liz Bramlet
Affordable Housing Consultant
(202) 316-0532
Liz@lizbramletconsulting.com

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