

## Section 42 Glossary

**Accelerated Portion of the Credit:** The excess of the aggregate allowable credit during the 10-year credit period under IRC §42 over the aggregate credit that would have been allowable ratably over the 15-year compliance period. IRC §42(j)(3).

**Additions to Qualified Basis:** Refers to increases in qualified basis after the end of the first year of the credit period because more residential rental units qualify as low-income units. If, as of the close of any taxable year in the 15-year compliance period (after the first year), the qualified basis of a low-income building exceeds the qualified basis as of the end of the first year of the credit period, then the applicable percentage used to compute the credit for the increase in qualified basis is two-thirds of the applicable percentage which would otherwise be applied. A rule similar to the special rule for the computation of the applicable fraction for the first year of the credit period is also applied. IRC §42(f)(3).

**Annual Report by Taxpayer to the State Agency:** See "Certification to State Agency."

**Applicable Fraction:** The portion of rental units that are qualified low-income units; determined as the smaller of the unit fraction or square footage fraction. IRC §§42(c) & 42(f). See "Unit Fraction" and "Floor Space Fraction."

**Applicable Fraction, Special Rule First Year of the Credit Period:** The applicable fraction for the first taxable year of the credit period is the sum of the applicable fractions as of the end of each full month of the first taxable year that the building was placed in service divided by 12. Any credit not allowable for the first year of the credit period because of the special rule is allowable for the first year following the credit period; i.e., year 11 of the 15-year compliance period. IRC §42(f)(2).

**Applicable Percentage:** The percentage that will yield the amount of credit equal to the present value of either 70% or 30% of the qualified basis, depending on the characteristics of the housing. The discount factor is known as the applicable percentage and is based on interest rates. IRC §42(b).

**Area Gross Median Income:** Area median gross income (adjusted for family size) for IRC §42 purposes is consistent with the determination of estimates for median family income under section 8 of the United States Housing Act of 1937 (HUD section 8). Estimates are based on definitions of income that include some items of income that are not included in a taxpayer's gross income for purposes of computing federal income tax liability. Beginning in 2010, to accommodate the IRC §142(d)(2)(e) hold harmless rule when determining the area median gross income, HUD now refers to qualified residential rental projects under IRC §142(d) and qualified low-income housing projects under IRC §42 collectively as "Multifamily Tax Subsidy Projects" (MTSP) provides separate tables with income limits specifically calculated for MTSPs. Notice 1988-80, CCA 201046014, and IRC §42(g)(1).

**Available Unit Rule:** If the income of an existing tenant rises above a specified amount, the next available comparable unit in the building must be rented to an income-qualified tenant. Otherwise, the "over-income" unit ceases to be a low-income unit. IRC §42(g)(2)(D) and Treas. Reg. §1.42-15.

**Binding Commitment:** A commitment by a state agency to allocate a specified credit amount beginning in a specified later year. The commitment must be made no later than the close of the calendar year in which the building is placed in service. IRC §42(h)(1)(C).

**Building:** A discrete edifice or other man-made construction consisting of an independent foundation, outer walls, and roof. A single unit which is not an entire building but is merely a part of a building is not a building or structure...as such, while single townhouses are not buildings if their foundation, outer walls, and roof are not independent, detached houses and row houses are buildings." Treas. Reg. §1.103-8(b)(8)(iv).

**Building, Existing:** Any building which is not a new building. IRC §42(i)(5).

**Building Identification Number:** A Building Identification Number (BIN) is assigned by the state agency to every building receiving an allocation of IRC §42 credit, or, as described in IRC §42(h)(4), financed with tax-exempt bonds subject to the volume cap under IRC §146. BINs consist of a two character state designation (the postal state abbreviation) followed by a two digit designation identifying the year the credit is allocated, and a five digit numbering designation. The BIN is unique to the building and must be used for all allocations of credit. Notice 1988-91.

**Building, Mixed Use:** A building including (1) low-income and market rate residential rent units, (2) low-income residential rental units and commercial property, or (3) low-income and market-rate residential rental units, and commercial property.

**Building, New:** A building for which original use begins with the taxpayer. IRC §42(i)(4).

**Building, Rehabilitated:** The expenditures associated with rehabilitating an existing building. The expenditures are treated as a new building and do not include the cost of acquiring the building. IRC §42(e)(1) and (2).

**Carry-Over Allocation:** An allocation of credit with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made. IRC §42(h)(1)(E) and Treas. Reg. §1.42-6.

**Certificate of Occupancy:** Document providing a description of the property and identifying the date the property is placed in service. In some locations it also describes zoning and the type of units.

**Certification, Annual Report by Taxpayer to the IRS:** Taxpayers file Form 8609-A, Annual Statement for Low-Income Housing Credit, Part I, with their tax returns for each year of the 15-year compliance period. IRC §42(l)(2)

**Certification, First Year:** Taxpayers are required to complete a certification with respect to the first year of the credit period. The certification is made by completing Part II of the Form(s) 8609 executed by the state agency to document the allocation of low-income housing credits. IRC §42(l)(1).

**Certification to State Agency:** The taxpayer is required to certify at

**Common Areas:** Property in a residential rental project subject to depreciation and (1) used in common areas or (2) to provide comparable amenities to all the residential rental units in the building(s). IRC §42(d)(4)(B).

**Community Service Facility:** A qualified low-income project located in a qualified census tract, as defined in IRC §42(d)(5)(B)(ii), may include a community service facility designed to service primarily nonresident individuals whose income is 60% or less of the area median income. The facility must be subject to depreciation, the cost includable in eligible basis is limited to a percentage of the total eligible basis, and the facility must be used throughout the year as a community service facility. IRC §42(d)(4)(C).

**Compliance Monitoring:** A procedure used by state agencies to monitor qualified low-income buildings for noncompliance with IRC §42 requirements and reporting noncompliance to the IRS. IRC §42(m)(1)(B)(iii) and Treas. Reg. §1.42-5.

**Compliance Period:** To qualify for the credit, the taxpayer must provide low-income housing for fifteen years, which is known as the compliance period, beginning with the first taxable year of the credit period with respect to the building. IRC §42(i)(1).

**Credit Ceiling:** See Housing Credit Ceiling.

**Credit Period:** In exchange for the investment in low-income housing, the taxpayer will receive tax credits for each of ten years, which is known as the credit period. The credit period begins with the taxable year in which the building is placed in service or, at the election of the taxpayer (which is irrevocable), the succeeding taxable year, but only if the building is a qualified low-income building as of the close of the first year of such period. IRC 42(f)(1).

**Credit Recapture Amount:** See "Recapture Amount."

**Depreciation:** A reasonable allowance for the exhaustion, wear and tear (including obsolescence) of property used in the trade of business of a taxpayer, or of property held for the production of income. IRC §§ 167, 168, and 179(d)(9).

**Difficult to Develop Area:** A subset of "high cost area." Any area designated by HUD as having high construction, land and utility costs relative to area median gross income. IRC §42(d)(5)(B)(iii)(I). Also, buildings designated by state agencies can be treated as located in a difficult to develop area as long as the building is not financed with tax-exempt bonds. IRC §42(d)(5)(B)(v).

**Disproportionate Standards of Units:** Generally, a low-income building's eligible basis is reduced by the portion attributed to residential rental units in the building that (1) are not low-income units and (2) are above the average quality standard of the low-income units. However, this reduction of eligible basis can be avoided under certain circumstance. IRC §42(d)(3).

**Extended Low-Income Housing Commitment ("Extended Use Agreement"):** No credit is allowable for a taxable year unless the agreement is in effect as of the last day of such taxable year. The agreement is a contract entered into by the taxpayer (and binding on all subsequent owners) and the state agency, recorded in the land records, and enforceable under state law. The agreement must meet certain requirements under IRC §4(h)(6). The agreement is also commonly referred to an "extended use agreement" or "land use restriction agreement." IRC §42(h)(6).

**Extended Use Period:** The period of time that an extended low-income housing commitment is in effect, beginning on the first day in the compliance period and ending on the later of the date specified by the state agency in the commitment or the date which is 15 years after the close of the compliance period. There are exceptions if the building is acquired by foreclosure (or instrument in lieu of foreclosure) or if no buyer is willing to maintain the low-income status. Both exceptions are subject to certain restrictions. IRC §42(h)(6)(D) and (E).

**Eligible Basis:** The total costs (adjusted basis) associated with the depreciable residential rental property qualifying for the credit at the end of the first year of the credit period and without regard to any deduction for depreciation. If the building is located in a high cost area, the eligible basis may be increased to as much as 130% of the actual costs. IRC §§42(d) and 42(e)

**Eviction:** The act or process of legally dispossessing a person of land or rental property. A taxpayer owning an IRC §42 project and wishing to evict a tenant must comply with applicable state and/or local laws governing evictions. See also, Good Cause eviction and Lease, Nonrenewal. IRC §42(h)(6)(B)(i) and Rev. Rul. 2004-82, Q&A #5.

**Facility, Functionally Related:** Facilities that are functionally related, and subordinate to, residential rental projects; e.g., swimming pools, parking lots and other facilities reasonably required for the project such as a resident manager's unit. Treas. Reg. §1.103-8(b)(4)(iii).

**Federally Subsidized:** A new building is treated as federally subsidized under IRC §42(b)(1) if, at any time during the taxable year or any prior taxable year, there is or was outstanding any obligation the interest on which is exempt from tax under IRC §103, the proceeds of which are or were used (directly or indirectly) with respect to such building or the operation thereof. IRC §42(i)(2). For new buildings placed in service before July 31, 2008, a "federally subsidized" building includes any below market Federal loan; i.e., any loan funded in whole or in part with federal funds if the interest rate payable on such loan is less than the applicable federal rate as of the date on which the loan was made. IRC §42(i)(2) prior to amendment by the Housing Assistance Tax Act of 2008.

**Final Cost Certification:** To ensure that the credit allocated to a project does not exceed the amount necessary to assure its feasibility and long-term viability, the state agency must evaluate the taxpayer's sources and uses of funds and the total financing planned for the project, the proceeds (capital contributions) expected to be generated by the tax benefits, the percentage of the housing credit dollar amount used for project costs other than the cost of intermediaries, and the reasonableness of the developmental and operational costs of the project. The evaluation is completed when the taxpayer applies for the credit, when the credit is allocated (usually a credit carry-forward allocation) and again when the project is placed in service. This last evaluation is commonly referred to as the Final Cost Certification and is based on actual costs incurred through the end of the first year of the credit period. IRC §42(m)(2) and Treas. Reg. §1.42-17(a)(5)

**First Year Certification:** See "Certification, First Year."

**Floor Space Fraction:** Method for computing the applicable fraction; i.e., the fraction for which the numerator is the total floor space of the low-income units in the building and the denominator of IRC §42(c)(1)(D). See "Applicable Fraction."

**Form 8610, Annual Low-Income Housing Credit Agencies Report:** Annual report by each state agency to (1) transmit Forms 8609 issued during the year, reconcile the state's credit ceiling, and report completion of compliance monitoring requirements. IRC §42(l)(3)

**Forms 8609, Low-Income Housing Credit Allocation and Certification:** Part I is completed by state agencies to document the allocation of credit for a qualified low-income building. A copy is sent to the IRS with the state agency's annual report on Form 8610 and the original is sent to the building owner. The owner completes Part II of the form received from the state agency

(with Part I executed) to document certain information and elections, and then makes a one-time filing to the IRS to complete the certification for the first year of the credit period. IRC §42(l)(1).

**Form 8609-A, Annual Statement for Low-Income Housing Credit:** Filed each year of the 15-year compliance period with the tax return for the taxpayer owning a low-income building. Part I satisfies the annual reporting requirement under IRC §42(l)(2) and Part II documents the computation of the allowable credit for the year. A separate Form 8609-A is filed for each allocation of credit; i.e., there is a one-to-one match of Forms 8609 issued by the state agency and Forms 8609-A filed by the taxpayer. IRC §42(l)(2).

**Form 8610, Schedule A, Carryover Allocation of Low-Income Housing Credit:** Documents the amount of credit allocated if the building(s) will be placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made, or if the credit allocation is made on a project basis. IRC §42(h)(1)(E) and (F).

**Form 8823, Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition:** Submitted to the IRS by state agency to report noncompliance with IRC §42 requirements or dispositions of property (or interests therein). Treas. Reg. §1.42-5(e)(3).

**General Public Use:** Rental units must be available for use by the general public, which includes rental in a manner consistent with fair housing policy governing nondiscrimination. A determination that a taxpayer violated fair housing policy governing nondiscrimination may result in the loss of credit. IRC §42(g)(9) and Treas. Reg. §1.42-9.

**Good Cause Eviction:** Determined by state or local law. Examples may include nonpayment of rent, violations of the lease or rental agreement, destruction or damage to the property, interference with other tenants or creating a nuisance, or using the property for an unlawful purpose. See “Eviction.”

**Grant, Federal:** A low-income building’s eligible basis cannot include any costs financed with the proceeds of a federally funded grant. IRC §42(d)(5)(A).

**Gross Rent:** The rent charged before required adjustments. IRC §42(g)(2)(B).

**High Cost Area:** For any new building located in a qualified census tract or difficult to developer area, the eligible basis can be increased by up to 130% of the eligible basis otherwise determined. The same holds true for rehabilitation expenses treated as a new building under IRC §42(e). IRC §42(d)(5)(B).

**Household, Low-Income:** A household whose combined income is less than or equal to the percentage of area median gross income elected by the taxpayer for purposes of the minimum set-aside requirement. A household is composed of all the occupants of a residential rental unit unless specifically excluded, whether or not legally related. A household’s income is compared to the appropriate percentage of the median family income for a family with the same number of members. Rev. Rul. 90-89 and IRC §42(g)(1).

**Household, Student:** A household composed entirely of full-time students is not considered a qualified low-income household unless the household is “excepted” by satisfying certain conditions. IRC §42(i)(3)(D).

**Housing Credit Agency:** Any state (or local) agency authorized to carry out IRC §42. “State” includes possessions of the United States. IRC §42(h)(8).

**Housing Credit Ceiling:** The IRC §42 credit available to a state for allocation by its housing agencies to qualified low-income buildings within the state. IRC §42(h)(3). Buildings financed by tax-exempt bonds are eligible for IRC §42 credit under specified conditions, but are not allocations that reduce the housing credit ceiling. IRC §42(h)(4).

**Imputed Income Limit:** For purposes of restricting the rents under IRC §42(g)(2), an imputed income limitation is used. It is based on the number of bedrooms in the unit and uses the income limit that would apply if each separate bedroom was occupied by 1.5 individuals. For a unit that does not have a separate bedroom, one person is deemed to occupy the unit. IRC §42(g)(2)(C).

**Income-Qualified Household:** See Household, Low Income

**Inspections by State Agency:** Tenant records and the project are subject to physical inspection by the state agency. Treas. Reg. §1.42-5(c)(2).

**Lease Nonrenewal:** A taxpayer is not obligated to renew a lease or enter into a new lease with an existing low-income tenant, and failure to do so does not, per se, constitute an eviction without good cause. However, the taxpayer must provide timely notice that the lease will not be renewed as required under state law and be prepared to demonstrate, if challenged in state court, that the nonrenewal of a lease is not a “termination of tenancy” for other than good cause under IRC §42.

**Low-Income Household:** See “Household, Low Income.”

**Low-Income Housing Project:** See “Project.”

**Low-Income Unit:** Any unit in the building if the unit is rent-restricted, the individuals occupying the unit meet the income limitation applicable under IRC §42(g)(1), the unit is suitable for occupancy, and the unit is not used on a transient basis. IRC §42(i)(3).

**Market Study:** A comprehensive market study of the housing needs of low-income individuals in the area to be served by a proposed IRC §42 project is conducted before the credit allocation. Generally, the developer pays for the study, which is completed by a disinterested party approved by the state agency. IRC §42(m)(1)(A)(iii).

**Material Participation of Qualified Nonprofit Organizations:** If the taxpayer received a credit allocation from the nonprofit set-aside, then the qualified nonprofit organization must materially participate in both the development and operation of the project throughout the 15-year compliance period. IRC 469(h) defines material participation as activity that is regular, continuous, and substantial. IRC §42(h)(5)(B). See “Nonprofit Set-Aside.”

**Maximum Qualified Basis:** Credit allocated to buildings is not to exceed the amount necessary to ensure financial feasibility of the project and its viability as a qualified low-income housing project throughout the credit period. The state agency can limit the credit by specifying a “maximum qualified basis” less than the qualified basis that would otherwise be allowable on Form 8609 line 3a. Alternatively, the state agency can lower the applicable percentage, which is reflected on Form 8609 line 2. IRC §42(m)(2)(A).

**Minimum Set-Aside:** The housing project will not qualify for any credit unless it includes a minimum number of qualified low-income rental units. IRC §42(g)(1)

**Mixed-Use Project:** See Project, Mixed Use

**Multifamily Tax Subsidy Projects (MTSP):** HUD’s designation for qualified residential rental projects under IRC §142(d) and qualified low-income housing projects under IRC §42 collectively. See also “Area Median Gross Income.”

**National Pool:** A state’s unused housing credit carryover for any calendar year that is assigned to the IRS for reallocation among qualified states for the succeeding year. IRC §42(h)(3)(D) and Treas. Reg. §1.42-14(h)(2)(i).

**Next Available Unit Rule:** See Available Unit Rule.

**Nonprofit Set-Aside:** The portion of the state’s housing credit ceiling set aside for projects involving qualified nonprofit organizations so that not more than 90 percent of the state’s credit ceiling is allocated to projects not involving qualified nonprofit organizations. IRC §42(h)(5).

**Owner Certification:** See “Certification to State Agency.”

**Placed-in-Service Date:** The placed-in-service date for a new or existing low-income building is the date on which the first unit in the building is certified as being suitable for occupancy in accordance with state or local law. Generally, this date is documented on the certificates of occupancy. The placed-in-service date for rehabilitation expenditures treated as a separate new building under IRC §42(e)(4)(A) is at the close of any 24-month period, over which such expenditures are aggregated. This placed-in-service date applies even if the building is occupied during the rehabilitation period. Notice 88-116.

**Project:** Each qualified low-income building is considered a separate project unless a taxpayer elects to treat the building as part of a multi-building project. The election is documented on Form 8609, Line 8b, with an attachment identifying all the

buildings to be included in the project. Two or more qualified low-income buildings can be included in a project only if the buildings are: (1) located on the same tract of land, unless all of the dwelling units in all the buildings are low-income units (see IRC §42(g)(7)), (2) are owned by the entity for federal tax purposes, (3) are financed under a common plan of financing, and (4) have similarly constructed housing units. IRC §42(g)(3)(D) and Treas. Reg. §1.103-8(b)(4)(ii).

**Project Based Allocation:** An allocation of credit to a project without specifying the amount of credit allocated to specific qualified buildings within the project. IRC §42(h)(1)(F).

**Project, Deep Rent Skewed:** A low-income project financed with tax-exempt bonds and for which the taxpayer has elected (1) 15% or more of the low-income units are occupied by individuals whose income is 40% or less of area median gross income, (2) the gross rent for each low-income unit does not exceed 30% of the applicable income limit, and (3) the gross rent for each low-income unit does not exceed one-half of the average gross rent of units of comparable size which are not occupied by individuals who meet the applicable income limit. IRC §142(d)(4)(B).

**Project, Mixed Use:** A project composed of (1) low-income and market rate residential rent units, (2) low-income residential rental units and commercial property, or (3) low-income and market-rate residential rental units, and commercial property.

**Project, Scattered Site:** Buildings which would, but for their lack of proximity, be treated as a project shall be treated as a project if all the dwelling units in all the buildings are rent-restricted residential rental units. IRC §42(g)(7).

**Qualified Allocation Plan (QAP):** State agencies are required to have a QAP in place for determining which housing projects should receive allocations of IRC §42 credits. The QAP must (1) identify the selection criteria to be used for determining housing priorities that are appropriate to local conditions, (2) give preference to projects serving the lowest income tenants, for the longest periods, and located in qualified census tracts and which will contribute to a concerted community revitalization plan, and (3) provide procedures that the agency or an agent or other private contractor of such agency will follow in monitoring for noncompliance with IRC §42 through regular site visits and in notifying the IRS of such noncompliance. IRC §42(m)(1)(B) and Treas. Reg. §1.42-5.

**Qualified Basis:** The qualified basis of any qualified low-income building for any taxable year is an amount equal to the applicable fraction (determined at the end of such taxable year) of the eligible basis of such building. IRC §42(c)(1).

**Qualified Basis, Increases in:** See "Additions to Qualified Basis."

**Qualified Census Tract:** A subset of "high cost area." Any census tract designated by HUD and, for the most recent year for which census data are available on household income in such tract, for which either (1) 50% or more of the households have an income which is less than 60% of the area median gross income for such year or (2) has a poverty rate of at least 25%. IRC §42(d)(5)(B)(ii)(I). See "High Cost Area."

**Qualified Contract:** A bona fide contract to acquire (within a reasonable period after the contract is entered into) the building(s), both the non low-income and low-income portions, after the end of the 15-year compliance period of the building(s) for an agreed upon purchase price that meets prescribed requirements. IRC §42(h)(6)(F) and Treas. Reg. §1.42-18.

**Qualified Low-Income Building:** Any building which is part of a qualified low-income housing project at all times during the period beginning on the first day in the 15-year compliance period of which such building is part of the project and ending on the last day of the 15-year compliance period with respect to such building and the building is subject to depreciation under IRC §168. IRC §42(c)(2).

**Qualified Nonprofit Organization:** Any tax exempt organization qualified to receive a credit allocation from the nonprofit set-aside. IRC §42(h)(5)(C).

**Qualified Low-Income Project:** Any project for residential rental property if, as irrevocably elected by the taxpayer, (1) 20% or more of the residential rental units in the project are both rent restricted and occupied by individuals whose income is 50% or less of area median gross income, or (2) 40% or more of the residential rental units in the project are both rent restricted and occupied by individuals whose income is 60% or less of area's median gross income. See "Minimum Set-Aside." IRC §42(g)(1).

**Recapture Amount:** The portion of the accelerated credit recaptured from each prior year of the 15-year compliance period plus interest at the overpayment rate (IRC 6621) on the recaptured accelerated credit. The interest portion of the recapture

amount is computed for each prior year beginning on the due date for filing such tax return to the due date for filing the tax return for the year in which the recapture provisions were triggered. IRC §42(j)(2).

**Recapture Percentage:** The portion of credit allowable in prior years of the 15-year compliance period subject to recapture if the recapture provisions are triggered. The recapture percentage is 33.3% for years 2 through 11, 26.7% for year 12, 20.0% for year 13, 13.3% for year 14, and 6.7% for year 15. IRC §42(j)(2)(A) and General Explanation of the Tax Reform Act of 1986, H.R. 3838, 99th Congress; Public Law 99-514.

**Records, Keeping and Retention:** Taxpayers are subject to recordkeeping and record retention provisions specific to IRC §42. The records must be retained for at least six years after the due date (with extensions) for filing the federal income tax return for that year. The records for the first year of the credit period must be retained for at least six years beyond the due date (with extensions) for filing the federal income tax return for the last year of the compliance period of the building. Treas. Reg. §1.42-(b) and Rev. Rul. 2004-82, Q&A #6.

**Rehabilitation Expenses:** Amounts chargeable to capital account and incurred for property (or additions or improvements to property) of a character subject to depreciation in connection with the rehabilitation of a building. IRC §42(e)(2).

**Rent Restricted:** The rent paid by low-income households must be restricted; i.e., the rent cannot exceed 30 percent of the imputed income limit for that unit. IRC §42(g)(2).

**Resident Manager's Unit:** Residential rental unit occupied by a full-time resident manager and treated as a functionally related facility. The adjustment basis of a resident manager's unit is included in eligible basis, but the unit is excluded from the determination of the applicable fraction and the minimum set-aside. Treas. Reg. §1.103-8(b)(4)(iii) and Rev. Rul. 92-61.

**Residential Rental Property:** Generally, a residential rental project is a building or structure, together with any functionally related and subordinate facilities, containing one or more similarly constructed units. IRC §168(e)(2)(A) and Treas. Reg. §1.103-8(b)(4)(i).

**Residential Rental Unit:** Any accommodation containing separate and complete facilities for living, sleeping, eating, cooking, and sanitation. Such accommodations may be served by centrally located equipment, such as air conditioning or heating. Certain single-room occupancy units also qualify as residential rental units even though such housing may provide eating, cooking and sanitation facilities on a shared basis. Treas. Reg. §1.103-8(b)(4)(i) and IRC §42(i)(3)(B)(iv).

**Single-Room Occupancy Unit (SRO):** Residential rental units providing eating, cooking and sanitation facilities on a shared basis. SROs can qualify as low-income units. Treas. Reg. §1.103-8(b)(8)(i) and IRC §42(i)(3)(B)(iv).

**State Housing Credit Agency:** See "Housing Credit Agency."

**Suitable for Occupancy:** The housing must be suitable for occupancy. Consideration is given to the site, building exterior, building systems, dwelling units, and common areas. All areas and components of the housing must be free of health and safety hazards. IRC § 42(i)(3)(B), Treas. Reg. §1.42-5(d)(2), Instructions for Form 8823, and CCA 201042025.

**Tax Benefit Rule:** The increase in tax under IRC §42(j)(1) for the credit recapture amount is increased only with respect to credits under IRC §42 which were used to reduce tax liability. Otherwise, the carry-forwards and carry-backs are appropriately adjusted. IRC §42(j)(4)(A).

**Tax-Exempt Bond Project:** A low-income housing project financed with loans financed through private activity bonds issued under IRC §146, and for which interest earned by the lender is exempt from federal taxation. IRC §142(d).

**Termination of Tenancy:** See "Eviction."

**Transitional Housing for the Homeless:** A unit is considered to be used other than on a transient basis if the unit contains sleeping accommodations and kitchen and bathroom facilities and is located in a building which is used exclusively to facilitate the transition of homeless individuals to independent living within 24 months, and in which a government entity or qualified nonprofit organization provides individuals with temporary housing and supportive services. IRC §§ 42(i)(3)(B)(iii) and 42(c)(1)(E).

**Unit Fraction:** Method for computing the applicable fraction; i.e., the fraction for which the numerator is the number of low-income units in the building and the denominator of which is the number of residential rental units (whether or not occupied) in the building. IRC §42(c)(1)(C).

**Unit, Low-Income:** See “Low-Income Unit.”

**Unit, Market Rate:** A residential rent unit for which the rent is not restricted

**Utility Allowance:** A portion of the gross rent. If the tenant pays the utility cost directly to the utility provider, gross rent must include an allowance for the utility. IRC §42(g)(2)(B)(ii) and Treas. Reg. §1.42-10.

**Vacant Unit Rule:** If a low-income unit becomes vacant, the taxpayer must make reasonable attempts to rent the unit before renting any units to tenants who are not income-qualified. Treas. Reg. §1.42-5(c)(1)(ix).