

# **Section 10**

IRS Forms  
8609 and 8609 Schedule A

## Low-Income Housing Credit Allocation and Certification

**Part I Allocation of Credit**

Check if:  Addition to Qualified Basis  Amended Form

<b>A</b> Address of building (do not use P.O. box) (see instructions)	<b>B</b> Name and address of housing credit agency
<b>C</b> Name, address, and TIN of building owner receiving allocation	<b>D</b> Employer identification number of agency
<b>E</b> Building identification number (BIN)	
<b>TIN</b> ▶ .....	

<b>1a</b> Date of allocation ▶ ...../...../.....	<b>b</b> Maximum housing credit dollar amount allowable	<b>1b</b>
<b>2</b> Maximum applicable credit percentage allowable .....		<b>2</b> %
<b>3a</b> Maximum qualified basis .....		<b>3a</b>
<b>b</b> If the eligible basis used in the computation of line 3a was increased, check the applicable box and enter the percentage to which the eligible basis was increased (see instructions)		<b>3b</b>
<input type="checkbox"/> Building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone	1 -- %	
<input type="checkbox"/> Section 42(d)(5)(C) high cost area provisions		
<b>4</b> Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-)		<b>4</b> %
<b>5</b> Date building placed in service ..... ▶ ...../...../.....		
<b>6</b> Check the boxes that describe the allocation for the building (check those that apply):		
<input type="checkbox"/> Newly constructed and federally subsidized	<input type="checkbox"/> Newly constructed and <b>not</b> federally subsidized	<input type="checkbox"/> Existing building
<input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized	<input type="checkbox"/> Sec. 42(e) rehabilitation expenditures <b>not</b> federally subsidized	
<input type="checkbox"/> Not federally subsidized by reason of 40-50 rule under sec. 42(i)(2)(E)	<input type="checkbox"/> 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
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**Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period**

<b>7</b> Eligible basis of building (see instructions) .....	<b>7</b>
<b>8a</b> Original qualified basis of the building at close of first year of credit period .....	<b>8a</b>
<b>b</b> Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>9a</b> If box 8a or box 8d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)? .....	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>b</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)? ..... ▶	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>10</b> Check the appropriate box for each election:	
<b>Caution:</b> Once made, the following elections are irrevocable.	
<b>a</b> Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ..... ▶	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>b</b> Elect <b>not</b> to treat large partnership as taxpayer (section 42(j)(5)) ..... ▶	<input type="checkbox"/> Yes
<b>c</b> Elect minimum set-aside requirement (section 42(g)) (see instructions) <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60	<input type="checkbox"/> 25-60 (N.Y.C. only)
<b>d</b> Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) .....	<input type="checkbox"/> 15-40

Under penalties of perjury, I declare that the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42. I have examined this form and 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)	Tax year	

## What's New

Buildings located in the Gulf Opportunity (GO) Zone, Rita GO Zone, and Wilma GO Zone that receive allocations in 2006, 2007, or 2008 and are placed in service during the period beginning on January 1, 2008, and ending on December 31, 2010, may have an increased eligible basis. Also, credit allocations made to buildings in these specific zones may take place in a year other than the year the building is put in service (see *Allocation of Credit*, later). See Pub. 4492, *Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma*, for a list of the counties and parishes in these specific zones.

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Owners of residential low-income rental buildings are allowed a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 can be used to obtain a housing credit allocation from the housing credit agency. A separate Form 8609 must be issued for each building in a multiple building project. Form 8609 is also used to certify certain information.

**Housing credit agency.** This is any state or local agency authorized to make low-income housing credit allocations within its jurisdiction.

**Building identification number (BIN).** This number is assigned by the housing credit agency. The BIN initially assigned to a building must be used for any allocation of credit to the building that requires a separate Form 8609 (see *Multiple Forms 8609* on this page). For example, rehabilitation expenditures treated as a separate new building should not have a separate BIN if the building already has one. Use the number first assigned to the building.

**Allocation of credit.** For an owner to claim a low-income housing credit on a building (except as explained under *Tax-exempt bonds* later), the housing credit agency must make an allocation of the credit by the close of the calendar year in which the building is placed in service, unless:

1. The allocation is the result of an advance binding commitment by the credit agency made not later than the close of the calendar year in which the building is placed in service (see section 42(h)(1)(C)).

2. The allocation relates to an increase in qualified basis (see section 42(f)(1)(D)).

3. The allocation is made to a building located in the Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone, if the allocation is made in 2006, 2007, or 2008 and the building is placed in service during the period beginning on January 1, 2008, and ending on December 31, 2010;

4. The allocation is made for a building placed in service no later than the second calendar year following the calendar year in which the allocation is made if the building is part of a project in which the taxpayer's basis is more than 10% of the project's reasonably expected basis as of the end of that second calendar year; or

5. The allocation is made for a project that includes more than one building if:

- The allocation is made during the project period,
- The allocation applies only to buildings placed in service during or after the calendar year in which the allocation is made, and
- The part of the allocation that applies to any building is specified by the end of the calendar year in which the building is placed in service.

See sections 42(f)(1)(E) and 42(h)(1)(F) and Regulations section 1.42-6 for more details.

The agency can only make an allocation to a building located within its geographical jurisdiction. Once an allocation is made, the credit is allowable for all years during the 10-year credit period. A separate Form 8609 must be completed for each building to which an allocation of credit is made.

**Multiple Forms 8609.** Allocations of credit in separate calendar years require separate Forms 8609. Also, when a building receives separate allocations for acquisition of an existing building and for rehabilitation expenditures, a separate Form 8609 must be completed for each credit allocation.

**Tax-exempt bonds.** No housing credit allocation is required for any portion of the eligible basis of a qualified low-income building that is financed with tax-exempt bonds taken into account for purposes of the volume cap under section 146. An allocation is not needed when 50% or more of the aggregate basis of the building and the land on which the building is located (defined below) is financed with certain tax-exempt bonds. However, the owner still must get a Form 8609 from the appropriate housing credit agency (with the applicable items completed, including an assigned BIN).

**Land on which the building is located.** This includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations sections 1.103-8(a)(3) and 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

### Filing Requirement

**Housing credit agency.** Complete and sign Part I of Form 8609 and make copies of the form. Submit a copy with Form 8610, *Annual Low-Income Housing Credit Agencies Report*, and keep a copy for the records. The agency must send the original, signed Form 8609 (including instructions) to the building owner.

**Building owner.** You must make a one-time submission of Form 8609 to the Low-Income Housing Credit (LIHC) Unit at the IRS Philadelphia campus. After making a copy of the completed original Form 8609, file the original of the form with the unit no later than the due date (including extensions) of your first tax return with which you are filing Form 8609-A, *Annual Statement for Low-Income Housing Credit*.

**Where to file Form 8609.** Send the property completed and signed form(s) to:

Internal Revenue Service  
P.O. Box 331  
Attn: LIHC Unit, DP 607 South  
Philadelphia Campus  
Bensalem, PA 19020

**Note.** The housing credit agency may require you to submit a copy of Form 8609 with a completed Part II to the agency. You should contact the agency to obtain agency filing requirements.

Also, file Form 8609-A for each year of the 15-year compliance period. The credit is claimed on Form 8586, *Low-Income Housing Credit*. See the forms for filing instructions.

### Building Owner's Recordkeeping

Keep the following items in your records for three years after the due date (including extensions) of the owner's tax return for the tax year that includes the end of the 15-year compliance period.

- A copy of the original Form 8609 received from the housing agency and all related Forms 8609-A (or predecessor Schedules A (Form 8609)), Forms 8586, and any Forms 8611, *Recapture of Low-Income Housing Credit*.
- If the maximum applicable credit percentage allocated to the building on line 2 reflects an election under section 42(b)(2)(A)(ii), a copy of the election statement.
- If the binding agreement specifying the housing credit dollar amount is contained in a separate document, a copy of the binding agreement.
- If the housing credit dollar amount allocated on line 1b reflects an allocation made under section 42(h)(1)(E) or section 42(f)(1)(F), a copy of the allocation document.

## Specific Instructions

### Part I—Allocation of Credit

#### Completed by Housing Credit Agency Only

**Addition to qualified basis.** Check this box if an allocation relates to an increase in qualified basis under section 42(f)(3). Enter only the housing credit dollar amount for the increase. Do not include any portion of the original qualified basis when determining this amount.

**Amended form.** Check this box if this form amends a previously issued form. Complete all entries and explain the reason for the amended form. For example, if there is a change in the amount of initial allocation before the close of the calendar year, file an amended Form 8609 instead of the original form.

**Item A.** Identify the building for which this Form 8609 is issued when there are multiple buildings with the same address (e.g., BLDG. 8 of 8).

**Line 1a.** Generally, where Form 8609 is the allocating document, the date of the allocation is the date the Form 8609 is completed, signed, and dated by an authorized official of the housing credit agency during the year the building is placed in service.

However, if an allocation is made under section 42(h)(1)(E) or 42(f)(1)(F), the date of allocation is the date the authorized official of the housing credit agency completes, signs, and dates the section 42(h)(1)(E) or 42(f)(1)(F).

document used to make the allocation. If no allocation is required (i.e., 50% or greater tax-exempt bond financed building), leave line 1a blank.

**Line 1b.** Enter the housing credit dollar amount allocated to the building for each year of the 10-year credit period. The amount should equal the percentage on line 2 multiplied by the amount on line 3a. As the housing credit agency is required to allocate an amount that is only necessary to assure project feasibility, the percentage on line 2 and the amount on line 3a can be lowered by the housing agency. For tax-exempt bond projects for which no allocation is required, enter the housing credit dollar amount allowable under section 42(j)(4).

**Line 2.** Enter the maximum applicable credit percentage allowable to the building for the month the building was placed in service or, if applicable, for the month determined under section 42(i)(2)(A)(i). This percentage may be less than the applicable percentage published by the IRS.

If an election is made under section 42(i)(2)(A)(ii) to use the applicable percentage for a month other than the month in which a building is placed in service, the requirements of Regulations section 1.42-8 must be met. The agency must keep a copy of the binding agreement. The applicable percentage is published monthly in the Internal Revenue Bulletin. For new buildings that are not federally subsidized under section 42(i)(2)(A), use the applicable percentage for the 70% present value credit. For new buildings that are federally subsidized, or existing buildings, use the applicable percentage for the 30% present value credit. See the instructions for line 6 for the definition of "federally subsidized." A taxpayer may elect under section 42(i)(2)(B) to reduce eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation in order to obtain the higher credit percentage.

For allocations to buildings for additions to qualified basis under section 42(i)(3), do not reduce the applicable percentage even though the building owner may only claim a credit based on two-thirds of the credit percentage allocated to the building.

**Line 3a.** Enter the maximum qualified basis of the building. In computing qualified basis, the housing credit agency should use only the amount of eligible basis necessary to result in a qualified basis which, multiplied by the percentage on line 2, equals the credit amount on line 1b. However, the housing credit agency is not required to reduce maximum qualified basis and can lower the maximum applicable percentage on line 2. To figure this, multiply the eligible basis of the qualified low-income building by the smaller of:

- The fractional amount of low-income units to all residential rental units (the "unit fraction") or
- The fractional amount of floor space of the low-income units to the floor space of all residential rental units (the "floor space fraction").

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy, used other than on a transient basis, and occupied by qualifying tenants. Section 42(i)(3) provides for certain exceptions (e.g., units that provide for transitional housing for the homeless may qualify as low-income units). See sections 42(i)(3) and 42(i)(1)(B) for more information.

Except as explained in the instructions for line 3b below, the eligible basis for a new building is its adjusted basis as of the close of the first tax year of the credit period. For an existing building, the eligible basis is its acquisition cost plus capital improvements through the close of the first tax year of the credit period. See the instructions for line 3b and section 42(d) for other exceptions and details.

**Line 3b. Special rule to increase basis for buildings in certain high-cost areas.** If the building is located in a high-cost area (i.e., "qualified census tract," "difficult development area," Gulf Opportunity (GO) Zone, Rita GO Zone, or Wilma GO Zone), the eligible basis may be increased as follows.

- For new buildings, the eligible basis may be up to 130% of such basis determined without this provision.
- For existing buildings, the rehabilitation expenditures under section 42(e) may be up to 130% of the expenditures determined without regard to this provision.

Enter the percentage to which eligible basis was increased. For example, if the eligible basis was increased to 120%, enter "120." See section 42(d)(5)(C) for definitions of a qualified census tract and a difficult development area, and for other details.

**Gulf Opportunity (GO) Zone, Rita GO Zone, and Wilma GO Zone.** The housing credit agency may increase the eligible basis of buildings in these specific zones if the buildings were placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010. For more information, see section 1400N(c)(3).

**Note.** Before increasing eligible basis, the eligible basis must be reduced by any federal subsidy which the taxpayer elects to exclude from eligible basis and any federal grant received.

**Line 4.** Enter the percentage of the aggregate basis of the building and land on which the building is located that is financed by certain tax-exempt bonds. If this amount is zero, enter -0- (do not leave this line blank).

**Line 5.** The placed-in-service date for a residential rental building is the date the first unit in the building is ready and available for occupancy under state or local law. Rehabilitation expenditures treated as a separate new building under section 42(a) are placed in service at the close of any 24-month period over which the expenditures are aggregated, whether or not the building is occupied during the rehabilitation period.

**Note.** The placed-in-service date for an existing building is determined separately from the placed-in-service date of rehabilitation expenditures treated as a separate new building.

**Line 6.** Generally, a building is treated as federally subsidized if at any time during the tax year or any prior tax year there is outstanding any tax-exempt bond financing or any below-market federal loan, the proceeds of which are used (directly or indirectly) for the building or its operation. If a building is federally subsidized, then box 6a or 6b must be checked regardless of whether the taxpayer has informed the housing credit agency that the taxpayer intends to make the election under section 42(i)(2)(B) to reduce eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation.

However, under section 42(i)(2)(E), buildings receiving assistance under the HOME Investment

Partnerships Act (as in effect on August 10, 1993) or the Native American Housing Assistance and Self-Determination Act of 1996 (as in effect on October 1, 1997) are not treated as federally subsidized if 40% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income (or national nonmetropolitan median gross income, when applicable). Buildings located in New York City receiving this assistance are not treated as federally subsidized if 25% or more of the residential units in the building are occupied by individuals whose income is 50% or less of the area median gross income.

Not more than 90% of the state housing credit ceiling for any calendar year can be allocated to projects other than projects involving qualified nonprofit organizations. A qualified nonprofit organization must own an interest in the project (directly or through a partnership) and materially participate (within the meaning of section 469(h)) in the development and operation of the project throughout the compliance period. See section 42(i)(5) for more details.

Generally, no credit is allowable for acquisition of an existing building unless substantial rehabilitation is done. See sections 42(d)(2)(B)(iv) and 42(i)(5). Do not issue Form 8609 for acquisition of an existing building unless substantial rehabilitation under section 42(e) is placed in service.

## Part II—First-Year Certification

Completed by Building Owner with respect to the First Year of the Credit Period



By completing Part II, you are certifying the date the building is placed in service corresponds to the date on line 5. If the

Form 8609 issued to you contains the wrong date or no date, obtain a new or amended Form 8609 from the housing credit agency.

**Line 7.** Enter the eligible basis (in dollars) of the building. Eligible basis does not include the cost of land. Determine eligible basis at the close of the first year of the credit period (see sections 42(i)(1), 42(i)(5), and 42(g)(3)(B)(ii) for determining the start of the credit period).

For new buildings, the eligible basis is generally the cost of construction or rehabilitation expenditures incurred under section 42(e).

For existing buildings, the eligible basis is the cost of acquisition plus rehabilitation expenditures not treated as a separate new building under section 42(a) incurred by the close of the first year of the credit period.

If the housing credit agency has entered an increased percentage in Part I, line 3b, multiply the eligible basis by the increased percentage and enter the result.

Residential rental property may qualify for the credit even though part of the building in which the residential rental units are located is used for commercial use. Do not include the cost of the nonresidential rental property. However, you may generally include the basis of common areas or tenant facilities, such as swimming pools or parking areas, provided there is no separate fee for the use of these facilities and they are made available on a comparable basis to all tenants in the project.