

IRS Housing Credit and Multifamily Housing Bond Regulatory Relief Available During COVID-19 Pandemic



Last Updated January 18, 2021

On January 15, 2021, IRS issued Notice 2021-12 providing temporary relief to state Housing Credit allocating agencies, owners, and residents of Housing Credit properties in response to the COVID-19 pandemic. This matrix compares the accommodations IRS provides in that notice to recommendations for COVID-19 guidance that NCSHA sent to IRS in a November 16, 2020, letter and to existing disaster relief IRS provides under Revenue Procedures 2014-49 and 2014-50, which are applicable in cases of a Presidentially-declared Major Disaster.

NOTE: NCSHA initially sent IRS a letter dated March 23, 2020, requesting COVID-19 relief for the Housing Credit program. IRS responded by publishing Notice 2020-53, which provided certain deadline extensions and waivers through December 31, 2020. NCSHA's November 16, 2020, letter requested further extensions of and additions to that relief. Notice 2021-12 extends the deadlines and waivers provided under Notice 2020-53 and, consistent with NCSHA's recommendations, expands relief measures to include additional relief not previously provided by the Service.

| ISSUE | IRS Revenue Procedures 2014-49 and 2014-50 | NCSHA Recommendation to IRS for COVID-19 Guidance (November 16, 2020) | IRS Notice 2021-12 COVID-19 Guidance |
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| 10% Test deadline as required in IRC §42(h)(1)(E)(ii) | 6-month extension for properties in Major Disaster areas at discretion of Housing Credit agency; applicable only to properties with a 10% Test deadline on or after the date of the Major Disaster | Extend until September 30, 2021, at minimum | Extension for projects with 10% Test deadlines falling on or after April 1, 2020, and before September 30, 2021, until the earlier of one year from the original due date or September 30, 2021 |
| Rehabilitation expenditure deadline as required in IRC §42(e)(3) and §42(e)(4) | N/AP | Extend until September 30, 2021, at minimum | Extension for projects with minimum rehabilitation expenditure period deadlines falling on or after April 1, 2020, and before September 30, 2021, until the earlier of one year from the original due date or September 30, 2021 |
| Placed in service deadline as required in IRC §42(h)(1)(E)(i) | 12-month extension for properties in Major Disaster areas at discretion of Housing Credit agency; applicable only to properties receiving a carryover allocation on or before the date of the Major Disaster | 12-month extension for all developments allocated Housing Credits in calendar years 2018-2021 | Extension until December 31, 2021, for projects that had a placed in service deadline of the close of calendar year 2020* |

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| Rehabilitation period allowed under IRS Revenue Procedures 2014-49 and 2014-50 for casualty loss due to Major Disaster | Allows Agencies to determine the reasonable restoration period for casualty loss due to Major Disaster, not to extend beyond the end of the 25 th month following the month of the disaster declaration | Extend until September 30, 2021, at minimum | Extension of restoration period after a pre-COVID-19 major disaster related casualty loss ending on or after April 1, 2020, for one year from the original end of the restoration period, but not later than December 31, 2021; the state Agency may require a shorter extension or no extension at all |
| Year-end restoration period deadline for properties suffering a casualty loss in 2020 <u>not</u> due to a Major Disaster | N/AP | 12-month extension (until December 31, 2021) of the year-end deadline for properties suffering a casualty loss not caused by a Major Disaster in 2020 | Extension of restoration period after a casualty loss ending on or after April 1, 2020, for one year from the original end of the restoration period, but not later than December 31, 2021; the state Agency may require a shorter extension or no extension at all* |
| Satisfying occupancy obligations under §42(f) | N/AP | N/AP | Calculate the qualified basis for projects in which the close of the first year of the credit period is between April 1, 2020 and June 30, 2021 by taking into account any increase in the number of low-income units by the close of the 6-month period following the close of the first year* |
| Noncompliance corrective action periods | N/AP | 12-month extension; Housing Credit agencies to reinstate deadlines at their discretion | 12-month extension, but not later than December 31, 2021* |

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| Tenant income recertifications | N/AP | Moratorium until September 30, 2021, at minimum | Waiver of all tenant income recertifications otherwise due between April 1, 2020 and September 30, 2021; Owners must resume conducting income recertifications no later than October 1, 2021 |
| Physical inspections and tenant file reviews as required in IRS regulation 1.42-5 | N/AP | Moratorium until September 30, 2021, at minimum | Waiver of required compliance monitoring physical inspections and tenant file reviews otherwise scheduled from April 1, 2020 until September 30, 2021; Housing Credit agencies must resume these compliance requirements by October 1, 2021 |
| Closure of property amenities and common space facilities | N/AP | Guidance that temporary closure will not negatively impact property eligible basis until September 30, 2021 | Closures during the time period from April 1, 2020 to September 30, 2021 in response to the COVID-19 pandemic and not because of other noncompliance do not result in reduction of eligible basis |
| QAP hearings under §42(m)(1)(A) | N/AP | Guidance that Housing Credit agencies may satisfy QAP public approval requirements using telephonic hearings until September 30, 2021 | Housing Credit agencies may satisfy QAP public approval requirements using telephonic hearings for QAP hearings occurring between April 1, 2020, and September 30, 2021* |
| Emergency housing for medical personnel and other essential workers | N/AP, although Rev. Proc. 2014-49 and 2014-50 allow use of Housing Credit properties to house displaced individuals, which may include medical personnel and other essential workers under Notice 2021-12 | N/AP | Medical personnel and other essential workers, as defined by state or local governments, may be treated as displaced individuals under Rev. Proc. 2014-49 and 2014-50 until September 30, 2021 |

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| 12-month transition period for tax-exempt bond financed projects to meet the set-aside for qualification as a residential rental project in Section 5.02 of IRS Rev. Proc. 2004-39 | N/AP | Extend until September 30, 2021, at minimum | Extension of transition periods ending on or after April 1, 2020, and before September 30, 2021, until September 30, 2021 |
| 2-year rehabilitation period for tax-exempt bonds used to provide qualified residential rental projects under §147(d) | N/AP | Extend until September 30, 2021, at minimum | Extension of rehabilitation periods ending on or after April 1, 2020 and before September 30, 2021 until September 30, 2021 |

* While most of the provisions in Notice 2021-12 were extensions of relief provisions originally provided under Notice 2020-53, these provisions were not covered by Notice 2020-53.