2016 Low-Income Housing Tax Credit Income Limits and Maximum Rents

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A Basic Introduction to Implementation

INTRODUCTION

Q: Why did HUD make such drastic changes to the way income and rent limits were calculated beginning in 2010?

A: Implementation of HERA 2008 requirements which became effective in 2010

History:

Prior to HERA HUD held the LIHTC income limits steady, preventing them from declining even if their formulas resulted in income limits that were less than those in effect the previous year.

This allowed LIHTC projects to at least MAINTAIN both the income and maximum rents without regard to the what was happening with the economy.

HUD stopped holding their income limits harmless in 2010 – allowing them to fluctuate with the local economy as required by HERA.

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HOLD HARMLESS

Q: What did the end of Hold Harmless mean for Multi-Family Housing Projects?

A: Projects are no longer guaranteed that income and rent limits will remain favorable despite what is happening in the economy.

HUD recognizes the impact this could have on many LIHTC projects' bottom line and has put 5% cap on how much income limits can change (increase or decrease) in one year.

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PROGRAMS IMPACTED

Q: What housing programs were affected by this change?

A:

- Section 8 program, public housing, Section 236, 202/811 PRAC, HOME, CDBG – all use HUD income limits as the basis of their income calculations.
- RD program limits are issued by Rural Development (but are based on HUD limits)
- LIHTC and Private Activity Bond Cap projects rents are also derived from the HUD income limits.

But. . .

HERA to the rescue! (?)

HERA'S IMPACTED ON RENTS

Q: How has HERA helped LIHTC projects maintain their ability to rent to a wide range of income limits AND maximize their rents?

A: HERA made statutory changes to how income limits are calculated for LIHTC and bond-financed projects. HERA protected Owners from rent decreases each year and established a new system for Owners to hold their income limits and rents harmless which was put into effect in 2010.

See Section 3009(a)(E) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289)

But…

Can the average person make heads or tails of these "statutory changes"?

Single Building vs. Multiple Building

MTSP

Gross Rent Floor Election Date

Impacted vs. Non-Impacted

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BUILDING TYPES

Q: What is the difference between a “Single Building” and a “Multiple Building” Project?

A: The Owner executed 8609 for each “BIN” (building ID # -assigned by IFA) in a project defines the type of project.

Line 8b: Multiple building (Y) or single building project (N) for each BIN.

If “Y” is checked: Each building is considered “Placed in Service” on the same date as the first building for which an executed 8609 was filed with the IRS for that particular collection of buildings.

5 buildings, 1PIS date – 1 Project

2 groups of 3 buildings; 2 PIS dates = 2 Projects

If “N” is checked: each building is either individually “Placed in Service” (PIS).

6 buildings; 6 PIS dates = 6 Projects or

MTSP

Q: What is a MTSP and how do I know whether my Project is impacted or not?

A: ***Definition- MTSP:*** *A Multi-Family tax subsidy project (MTSP)* is a project financed through the LIHTC and/or tax-exempt bond programs. This is HUD's special name for projects financed through the LIHTC or Private Activity Bond Cap (PABC) programs.

Definition –Impacted MTSP: *Projects are considered "impacted" if the project's income limits as determined in either 2007 or 2008 were under HUD's hold-harmless policy and the project was Placed in Service (PIS) prior to 01/01/09.*

So . . .

by definition a non-impacted MTSP was Placed in Service after **12/31/08.**

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IMPACTED VS NON-IMPACTED PROJECTS

- A “single building project” qualifies as impacted only if the building was PIS ***on or before*** 12/31/08. This is defined on Line 8b of each building’s 8609 form.

- A “multi-building project” qualifies as impacted only if at least one building included in the project was PIS ***on or before*** 12/31/08. This is defined on Line 8b of each building’s 8609 form.

- For an acquisition/rehab project, the Owner places the acquisition credits in service when a building is acquired and then places the rehab credits in service for each building when completing its rehabilitation activities. A project qualifies as Impacted if it’s ***acquisition credits*** were in service before 12/31/08.

- ***NOTE:*** *If a developer re-syndicates an existing project, it becomes a non-impacted MTSP and rents may decrease (as there is a new PIS date.)*

IMPACTED VS NON-IMPACTED PROJECTS

IMPACTED MTSP PROJECTS

If your Project was Placed in Service PRIOR to 01/01/09:

- The Owner should use the HERA-Special income limits HUD publishes for the project's county. Please note: There may not always be HERA Special limits set for your county each year (remember, income limits now fluctuate with the economy.)

- If there are no HERA-Special income limits posted for the county and the project was Placed in Service prior to 01/01/2009, the Owner would use the MTSP income limits.

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Impacted MTSP Projects: Example

Example #1: Impacted MTSP

4 buildings, multiple building election

PIS date all building **5/15/2001** – 40/60

Location: **Polk** County IA

Household:

Household of 3 –want 2 bedroom Apt.

Verified household income: $40,600

- Can use HERA Special Income & Rent Limits as PIS <01/01/2009
- Maximum income for 3 person at 60%: $41,640
- Maximum Rent for 2 bedroom: $1,041

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IMPACTED VS NON-IMPACTED PROJECTS

NON-IMPACTED MTSP PROJECTS

If your project was Placed in Service on or after 01/01/2009 AND before 03/29/2016:

- The project is not eligible to use the HERA Special income limits, but the rent and income limits may have been subject to HERA general “Hold Harmless “policy; the income limits provided by HUD will advise for each county how the income limits were determined for 2016.

- The HUD website will provide you with this information.

http://www.huduser.org/portal/datasets/il/il16/index_mtsp.html

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IMPACTED VS NON-IMPACTED PROJECTS

NON-IMPACTED MTSP PROJECTS

If your project was Placed in Service on or after 01/01/2009 AND before 03/28/2016:

- In previous years, HUD published a chart under the heading, "Determination of Maximum Income Limits for each county in their dataset. This chart would indicate which income limits you would use, depending upon your project's Placed in Service date.
- In 2016 they have eliminated this chart. This means you will need to manually review the income limits for the county in which your project is located. You can go all the way back to the limits in effect when your project was Placed in Service to find those most advantageous to your project.

IMPACTED VS NON-IMPACTED PROJECTS

NON-IMPACTED MTSP PROJECTS

A best practice might be to create a table of your own for each project. Here is an example:

Polk County, Iowa									
Historical Review of Maximum Income Limits at 50%									
Placed In Service Date	Income Limit Year	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person	7 Person	8 Person
On or before 12/31/2008	HERA Special								
1/1/2009 to 5/13/2010	2009	25,100	28,700	32,250	35,850	38,700	41,600	44,450	47,300
5/14/2010 to 5/31/2011	2010	25,650	29,300	32,950	36,600	39,550	42,500	45,400	48,350
6/1/2011 to 11/30/2011	2011	26,100	29,800	33,550	37,250	40,250	43,250	46,200	49,200
12/01/2011 to 12/10/2012	2012	26,450	30,200	34,000	37,750	40,800	43,800	46,850	49,850
12/11/2012 to 12/17/2013	2013	25,550	29,200	32,850	36,450	39,400	42,300	45,200	48,150
12/18/2013 to 3/05/2015	2014	26,250	30,000	33,750	37,450	40,450	43,450	46,450	49,450
3/06/2015 to 3/28/2016	2015	26,250	30,000	33,750	37,500	40,500	43,500	46,500	49,500
3/29/2016 to Present	2016	26,950	30,800	34,650	38,450	41,550	44,650	47,700	50,800

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From this example you can see that the 2016 limits are the highest since 2009 and would then use them for all projects PIS after 1/1/2009

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Non-Impacted Projects: Examples

Example #2: Non-Impacted project, but hold harmless policy invoked

2 buildings, Multiple building election

Building #1 -PIS date **12/13/2013** – 40/60

Building #2 -PIS date **1/15/2014** -40/60

Location: **Linn** County IA

The two buildings are part of a multi-project building so the PIS to use would be **12/13/2013** when determining which dataset to use.

Household:
Household of 3
Want: 2 bedroom Apt.
Verified household income: $34,800

NON-IMPACTED PROJECTS – EXAMPLE

Example #2 (cont.)

- **Buildings #1 and #2: Not eligible for HERA Special Limits PIS >12/31/08**
- **Linn income limits held harmless in 2016. (See text to the right →**
- **2015 limits put into use as higher than 2016.**

Section 3009(a)(E)(i) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289) provides a general "hold-harmless" policy for Multi-Family tax subsidy projects after calendar year 2008. Based on HUD's estimate of Median Household Income for FY2016, this "hold-harmless" policy was invoked for FY2016 MTSP Income Limits in ***Linn County****.*

	2015	2016
Maximum Income for 3 person at 60%:	$42,180	$41,160
Maximum Rent for 2 Bedroom:	$1,054	$1,029

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IMPACTED VS. NON-IMPACTED PROJECTS – EXAMPLE

Example #3: Impacted MTSP project

- 2 buildings, Single building election
- 1st building PIS date of 12/15/2008
- Location: Linn County IA

- HERA Special Limits for Linn County would be used to determine correct dataset to use.

Household:

- Household of 4
- Wants a 3 bedroom Apt.
- Verified household income: $50,000

Linn County 2016	
Placed in Service Date	**Maximum Income Limits**
On or before 12/31/2008	FY2016 HERA Special
1/1/2009 to 5/13/2010	FY2015
5/14/2010 to 5/31/2011	FY2015
5/14/2010 to 5/31/2011	FY2015
12/01/2011 to 12/10/2012	FY2015
12/11/2012 to 12/17/2013	FY2015
12/18/2013 to 3/05/2015	FY2015
3/06/2015 to 03/28/2016	FY2015
03/29/2016 to Present	FY2015

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IMPACTED VS NON-IMPACTED PROJECTS – EXAMPLE

Example #3- cont.

•**Impacted** -Use 2016 HERA Special Income & Rent Limits as the building PIS is <01/01/09 & are not lower than 2015.

HERA SPECIAL -Linn	2015	2016
Maximum Income for 4 person at 60%:	$50,280	$50,280
Maximum Rent for 3 Bedroom:	$1,308	$1,308

- **But: Unit vacancy in Building 2 only,** PIS date of <u>01/25/2009</u>
- **Non-Impacted -** No HERA special, regular MTSP limits:

MTSP –Linn	2015	2016
Maximum Income for 4 person at 60%:	$46,860	$45,720
Maximum Rent for 3 Bedroom:	$1,218	$1,188

In this case the household *<u>would NOT</u>* Qualify for an LIHTC unit, even going back to 2015.

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IMPACTED VS NON-IMPACTED PROJECTS

NON-IMPACTED (OR FUTURE) MTSP PROJECT

If a project was PIS ***On or after*** 03/29/2016 the project is not eligible to use the HERA Special income limits,

But. . .

The income limits for each non-Impacted project will not decline and will be held harmless at the highest level attained since being Placed in Service.

As long as the income limits for a county do not decline, all non-impacted projects in the area will use the same income limits.

IMPACTED VS NON-IMPACTED

SUMMARY

Impacted MTSP

- Project Placed in Service Prior to 01/01/2009
- 2016 HERA Special Income Limits and Rents
- Use HERA Special Limits if available in your County, if not, use MTSP Limits

Non-Impacted MTSP #1

- Project Placed in Service After 12/31/2008 ***but prior*** to 03/29/2016
- Hold Harmless Provisions may apply (Check limits since PIS to determine which set to use)
- Use MTSP Income Limits and Rents as determined by HUD based upon the PIS Date.

Non-Impacted MTSP #2

- Projects Placed in Service On or After 3/29/2016
- Hold Harmless Provisions will not apply
- Used MTSP Income Limits and Rents as determined by HUD based upon the PIS Date*

* If you believe that the rents calculated using the appropriate income limits are less than those established by the project's gross rent floor, please contact IFA for assistance.

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Q: How does HERA impact how maximum rents are calculated?

A: HERA did not address changes to the rules for how maximum allowable rents are calculated for an LIHTC project.

- IFA publishes the county by county charts which we have calculated rents based upon HUD published limits . These charts are posted on the IFA Compliance Web Page back to 2004.

- Our chart includes incomes and rents calculated for 30, 40, 50 & 60% households as well as the 140% income limits to be used at recertification.

Remember to subtract the utility allowance to calculate the maximum household rent for all types of projects!

GROSS RENT FLOOR ELECTION

What is Gross Rent Floor Election (GRF)?

A: Revenue Procedure 94-57 established the concept of a rent floor for every LIHTC project that received its credit allocation after 1989.

- Rev Proc 94-57 protected Owners from rent decreases below a certain level even if income limits for the area continued to decline
- The GRF takes effect either on the date that IFA initially allocated a credit dollar amount to a building (the effective date of the carryover agreement); or, if the Owner elects at carryover to calculate the GRF using the PIS date instead.
- For bond-financed projects, the date that IFA initially issued the letter of determination (the reservation letter) would be used.

But. . . HERA seems to nullify Rev Proc 94-57 as a new rent floor is established for a project every time HUD issues new, higher MTSP income limits for a county or metro area. There are still times when the GRF can affect properties. . .

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GROSS RENT FLOOR ELECTION

This likely impacts a very small segment of projects nationwide. But let's look at a project in Linn County:

The Owner receives the carryover allocation in 2015 and establishes the GRF at that time as 01/01/2016 when the owner executed the carryover agreement.

- The Owner placed the project in service on 7/15/2016 and would be subject to the 2016 limits;
- **However, the 2015 income/rent limits that were in effect on 1/1/2016 are *higher* than the 2016 limits.**
- The Owner would be allowed to use the 2015 maximum rent limits (because of the election to established the GRF at carryover rather than PIS) **but would have to use the 2016 income limits to determine household eligibility.**

Contact IFA if you think this situation may apply to your project and we'll help you figure it out!

HERA AND THE 140% RULE

HERA did not address changes to the rules for how an Owner re-certifies a Household who is over-income. Same rules apply as always.

IFA publishes the county by county charts which include the 140% income calculations for both HERA and MTSP Limits.

Remember, if a household's income has risen above 140% of their income limit (in units not held to State Agency Covenants), the Owner protects their tax credits by implementing the next available unit rule!

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EXTREMELY LOW-INCOME UNITS

Many of projects have agreed to agency covenants (as found in the project's LURA) whereby the owner will rent to households at the 30, 40 or 50% of AGMI limits for a specific number of units in their projects.

Beginning in 2015 it was noted that the 30% income limits and maximum rents were often **higher** than the 40%, and sometimes even closer to the 50% limits. This is apparent when you are qualifying households with four or more household members and for rents in units with four or more bedrooms.

This is due to language contained in the Consolidated Appropriations Act of 2014 which built upon earlier legislation that worked to establish a new income standard based on 30% of median Household income.

EXTREMELY LOW-INCOME UNITS

The 2014 legislation further modified earlier work to ensure that these income limits would not fall below the poverty guidelines determined for each Household size.

Specifically, extremely low-income families are defined to be very low-income families whose incomes are:

The greater of the Poverty Guidelines as published by the Dept. of Health and Human Services

OR

The 30% income limits calculated by HUD.

- The extremely low income limits therefore are first calculated as 30/50ths (60 percent) of the Section 8 very low-income limits.
- They are then compared to the appropriate poverty guideline and if the poverty guideline is higher, that value is chosen.
- If the poverty guideline is above the very low-income limit at that Household size, the extremely low-income limit is set at the very low-income limit because the definition of extremely low-income limits caps them at the very low-income levels.

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EXTREMELY LOW-INCOME UNITS

Example: 30% Limits are Higher than the 40% limits for 5+ person households.

MTSP Income Limits & Maximum Rents – Adair County

Income Limits	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
30%	13,300	16,020	20,160	24,300	**28,440**	**32,580**	**36,730**	**40,890**
40%	17,760	20,280	22,800	25,320	27,360	29,400	31,400	33,440
50%	22,200	25.350	28,500	31,650	34,200	36,750	39,250	41,800
60%	26,640	30,420	34,200	37,980	41,040	44,100	47,100	50,160

Rents	0 Bdrm.	1 Bdrm.	2 Bdrm.	3 Bdrm.	4 Bdrm.
30%	332	366	504	**659**	**814**
40%	444	475	570	658	735
50%	555	594	712	823	918
60%	666	713	855	987	1,102

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TRAINING & OTHER RESOURCES

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Liz Bramlet Consulting, LLC Liz Bramlet, President Washington, D.C Phone: (800) 784 -1009 www.lizbramletconsulting.com	Spectrum Seminars, Inc. 545 Shore Road Cape Elizabeth, Maine 04107 Phone 207.767.8000 www.SpectrumSeminars.com	The TheoPro Group 21150 West Capitol Drive, Suite 5 Penwaukee, WI 53072 Phone 877.783.1133 www.icomply42.com
National Center for Housing Management (NCHM) 12021 Sunset Hills Rd, Suite 210 Reston, VA 20190 Phone 800.368.5625 www.NCHM.org	Quadel Consulting Corporation 1200 G. Street, N.W., Suite 200 Washington, DC 20005 Phone 202.789.2500 or 800.987.2581 www.Quadel.com	Zeffert & Associates 2321 Weldon Parkway St. Louis, MO 63145 Phone: 314-514-7755 www.zeffert.com/index.php/ourtraining/scheduled-training

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