

## Part III - Administrative, Procedural and Miscellaneous

### Extension of Notice 2012-18 Treatment for States Participating in the Physical Inspections Pilot Program

Notice 2014-15

#### PURPOSE

This notice extends the time period for the alternative method, announced in Notice 2012-18, 2012-10 I.R.B. 438, to satisfy certain physical inspection and certification review requirements under § 1.42-5(c)(2) of the Income Tax Regulations.

#### BACKGROUND

Section 42 of the Internal Revenue Code sets forth rules for determining the amount of the low-income housing credit. Section 1.42-5(c) and (d) provides physical inspection and certification review procedures that a state or local housing credit agency (or its Authorized Delegate within the meaning of § 1.42-5(f)(1)) (a “state housing finance agency”) must follow in monitoring for compliance with the provisions of § 42.

In 2011, the Rental Policy Working Group established by the White House Domestic Policy Council instituted a Physical Inspections Pilot Program for state housing finance agencies in participating states. Under this program, to avoid duplicate inspections, participating state housing finance agencies addressed their physical inspection responsibilities under § 1.42-5(c)(2) by using the

inspection protocol of the Real Estate Assessment Center (REAC) of the Department of Housing and Urban Development.

As described in Notice 2012-18, however, some details of the REAC protocol differ from the requirements in § 1.42-5(c)(2), and the use of the REAC protocol poses administrative difficulties for state housing finance agencies in satisfying their certification review responsibilities. Notice 2012-18, therefore, provided that if a state housing finance agency participated in the Physical Inspections Pilot Program, then for the year of participation—

(1) The inspections under the program were deemed to satisfy the requirements of § 1.42-5(c)(2)(ii) regarding on-site physical inspections of at least 20 percent of the low-income units and of all buildings in a project; and

(2) The state housing finance agency was able to satisfy the certification review requirements of § 1.42-5(c)(2)(ii) by reviewing the appropriate records for 20 percent of the low-income units in the project regardless of whether any of the units whose files were reviewed were among the units that were physically inspected.

These provisions of Notice 2012-18 applied from November 7, 2011, through December 31, 2012.

#### EXTENSION OF NOTICE 2012-18 TREATMENT

This notice extends the provisions of Notice 2012-18 through December 31, 2014. Thus, if a state housing finance agency participated and/or participates in the Physical Inspections Pilot Program in 2013 and/or 2014, then the provisions of Notice 2012-18 that are described above apply to the agency's

satisfaction of the physical inspection and certification review requirements of § 1.42-5(c)(2)(ii) for the year or years in which the agency participated and/or participates in the program.

As is described in the Department of the Treasury 2013–2014 Priority Guidance Plan, the Internal Revenue Service and the Department of the Treasury are working on regulations under § 42 relating to compliance monitoring, including issues identified in Notice 2012-18. If those regulations apply for 2014, their application in 2014 will be no less favorable than the provisions of Notice 2012-18 as extended by this notice.

#### EFFECT ON OTHER DOCUMENTS

Notice 2012-18 is amplified.

#### DRAFTING INFORMATION

The principal author of this notice is Jian H. Grant of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, please contact Ms. Grant at (202) 317-4137 (not a toll-free call).