

Low-Income Housing Credit Disaster Relief for the State of California

Notice 2019-52

I. PURPOSE

In response to the devastation caused by the California Wildfires to Butte, Los Angeles, and Ventura Counties in the State of California (hereinafter, California), this notice expands the emergency housing and compliance monitoring relief that is provided in Rev. Proc. 2014-49, 2014-37 I.R.B. 535, and Rev. Proc. 2014-50, 2014-37 I.R.B. 540. The expanded relief in this notice is limited to the CA Wildfires Major Disaster, as defined below. Except as expressly provided in this notice, all provisions of Rev. Procs. 2014-49 and 2014-50 apply to the CA Wildfires Major Disaster without modification. For example, this notice does not modify the carryover allocation relief provisions of Rev. Proc. 2014-49, because the only low-income housing project damaged or destroyed by the wildfire had been placed in service before the disaster.

This notice also solicits public comments regarding any desirable modifications to Rev. Procs. 2014-49 and 2014-50.

II. BACKGROUND

Rev. Procs. 2014-49 and 2014-50 provide temporary relief from certain requirements of §§ 42 and 142(d) of the Internal Revenue Code in the context of a major disaster. Rev. Proc. 2014-49 provides guidance and relief to the owners of qualified low-income housing projects (each such project, a § 42 Project) and to Agencies (as defined in section 5.01 of Rev. Proc. 2014-49) that are responsible for those § 42 Projects. Rev. Proc. 2014-50 provides guidance to issuers of exempt facility bonds financing qualified residential rental projects under § 142(d) (each such issuer, an Issuer; each

such project, a § 142(d) Project) and to operators of those § 142(d) Projects. Various aspects of these revenue procedures apply with respect to § 42 Projects and § 142(d) Projects both inside and outside of the area in which the major disaster occurs.

Sections 12 through 14 of Rev. Proc. 2014-49 and sections 5 through 7 of Rev. Proc. 2014-50 facilitate emergency housing relief for Displaced Individuals (as defined in section 5.02 of Rev. Proc. 2014-49 and in section 4.04 of Rev. Proc. 2014-50). To achieve this end, these sections give owners of § 42 Projects and operators of § 142(d) Projects the option to apply certain modifications to the rules of §§ 42 and 142(d), provided that the relevant Agency or Issuer authorizes the owner or operator to do so. Among these modifications is the ability to disregard the actual income of a Displaced Individual housed in a § 42 Project or a § 142(d) Project, even if the Displaced Individual's income exceeds the limitations on income provided in §§ 42 or 142(d). The option to apply these modified rules is limited to a period defined in the revenue procedures as the Temporary Housing Period. See section 5.08 of Rev. Proc. 2014-49 and section 4.13 of Rev. Proc. 2014-50. The Temporary Housing Period begins on the first day of the incident period, as determined by the Federal Emergency Management Agency (FEMA), and ends on a date determined by the Agency or Issuer. Both revenue procedures provide a date beyond which the Temporary Housing Period may not extend. See section 12.02(1) of Rev. Proc. 2014-49 and section 5.02(1) of Rev. Proc. 2014-50.

On November 12, 2018, under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5206 (the Stafford Act), the President of the United States issued a major disaster declaration with respect to the

damage in California caused by wildfires beginning on November 8, 2018, and FEMA designated three counties (Butte, Los Angeles, and Ventura Counties) within California to be eligible for Individual Assistance and Public Assistance under the Stafford Act (CA Wildfires Major Disaster). See 83 Fed. Reg. 64352 (2018). The incident period for the CA Wildfires Major Disaster began on November 8, 2018, and closed on November 25, 2018. See 83 Fed. Reg. 63553 (2018).

Agencies must periodically review § 42 Projects for compliance with the affordability and habitability requirements of § 42. See § 42(m)(1)(B)(iii); see also § 1.42-5 of the Income Tax Regulations. Under section 9 of Rev. Proc. 2014-49, an Agency may extend the due date for its scheduled compliance reviews for up to one calendar year from the date of a low-income building's restoration and placement again into service. That revenue procedure does not delay the compliance review due dates of buildings that do not require restoration and replacement into service.

III. EMERGENCY HOUSING RELIEF

Solely in connection with the CA Wildfires Major Disaster, the second sentence of section 12.02(1) in Rev. Proc. 2014-49 and the second sentence of section 5.02(1) in Rev. Proc. 2014-50 are revised to read: "The Temporary Housing Period cannot extend beyond the end of July 2020."

IV. COMPLIANCE MONITORING RELIEF

Under this notice, the California Tax Credit Allocation Committee (CTCAC) may extend the date for its compliance review of low-income housing projects notwithstanding section 9 of Rev. Proc. 2014-49. For any such building, this extension may not last beyond one calendar year from the later of—

- November 25, 2018; or
- In the case of a building that has suffered a casualty loss due to the CA Wildfires Major Disaster or has been completely taken out of service due to the CA Wildfires Major Disaster, the date of the building's restoration and placement again in service.

This extension of dates for compliance review by the CTCAC does not, however, extend the compliance monitoring deadlines for owners or operators. If the CTCAC learns that an owner or operator has failed to comply with the rules of § 42, as applicable, the noncompliance must be reported timely to the Internal Revenue Service (Service), along with a description of whether and how the wildfires contributed to the noncompliance.

V. REQUEST FOR COMMENTS REGARDING POSSIBLE MODIFICATIONS TO REVENUE PROCEDURES 2014-49 AND 2014-50

The Department of the Treasury and the Service are considering whether to make any changes to Rev. Procs. 2014-49 and 2014-50, and, in that regard, request comments from the public regarding possible changes to the two revenue procedures.

Comments should be submitted by October 31, 2019. Comments may be mailed to:

Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2019-52)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

or hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to:

Courier's Desk
Internal Revenue Service
Attn: CC:PA:LPD:PR (Notice 2019-52)

1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Alternatively, persons may submit comments electronically via e-mail to the following address:

Notice.Comments@irscounsel.treas.gov.

Persons should include "Notice 2019-52" in the subject line. All comments submitted will be available for public inspection and copying in their entirety.

VI. DRAFTING INFORMATION

The principal author of this notice is Michael J. Torruella Costa of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice contact Michael J. Torruella Costa on (202) 317-4137 (not a toll-free call).