Instructions for Form 8609-A
(Rev. December 2008)
Annual Statement for Low-Income Housing Credit

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

General Instructions

What’s New

If you disposed of a building or a certain interest therein and it is no longer necessary in certain circumstances to file Form 8693, Low-Income Housing Credit Disposition Bond, to prevent recapture of the low-income housing credit. If you have already filed Form 8693, you can make an election to discontinue the maintenance of the established account. See Recapture and building dispositions for details.

The method used to calculate basis reductions for certain buildings has changed. See Basis reductions for buildings placed in service after July 30, 2008, for details.

For buildings placed in service after December 31, 2007, the credit is no longer limited by the alternative minimum tax rules. Form 8586, Low-Income Housing Credit, has been revised to reflect this change. See the instructions for line 1b for information on reporting the credit on Form 8586.

In order to claim the credit, you must follow the procedures below, relative to the low-income housing credit. If you have any questions, call your local IRS office. See Pub. 970, IRS Practice and Examination Procedures, for a list of the counties for a newly constructed or existing building. The entity will attach and parishes in these specific zones. You need to file a separate Form 8609-A for a newly constructed or existing building. This form will include all the information required to substantiate the credit.

Specific Instructions

Part I—Compliance Information

Item A. Enter the building identification number (BIN) from Part I, item E of Form 8609.

Item B. You need to file one Form 8609-A for a newly constructed or existing building. You need to file a separate Form 8609-A for section 42(a) rehabilitation expenditures because such expenditures are treated as creating a new building.

Item C. In order to claim the credit, you must have an original, signed Form 8609 (or copy thereof) issued by a housing credit agency assigning a BIN for the building. This applies even if no allocation is required (in the case of a building financed with tax-exempt bonds). Check “Yes” to certify that you have the required Form 8609 in your records.

Any building owner claiming a credit without receiving a completed Form 8609 that is signed and dated by an authorized official of the housing credit agency and submitting the completed Form 8609 (Part I and Part II) to the IRS is subject to having the credit disallowed. See Form 8611 to find out if you have to recapture part of the credit allowed in prior years.

Part II—Computation of Credit

Line 1. Generally, the eligible basis of a building for its entire 15-year compliance period is the amount of eligible basis entered on Form 8609, line 7b (Part II, line 1b, on the 1991 revision; line 7 on the 2003, 2005, 2006, 2007, and 2008 revisions).

Basis increases for buildings in certain high-cost areas. In order to increase the credit for buildings in certain high-cost areas, the housing credit agency may increase the eligible basis of buildings located in these areas (after adjustments, if any, for federal subsidies and grants). The agency may make this increase under the high cost area provisions of section 42(d)(5)(B). For buildings placed in service before July 31, 2008, the high cost area provisions under former section 42(d)(5)(B) apply.

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 receive allocations in 2006, 2007, or 2008 and the buildings are placed in service during the period beginning on January 1, 2006, and ending December 31, 2010. See section 1400N(c)(3) for more information. 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.

Note. This increase cannot cause the total basis of buildings placed in service before January 1, 2007, to exceed the maximum basis amount allocated on line 1b, Part I, of Form 8609.

Basis reductions for buildings placed in service before July 31, 2008. The amount of eligible basis entered on Form...
service for the last 3 full months of your tax year, and was half occupied by low-income tenants as of the end of each of those 3 months, then assuming the smaller fractional amount was the unit fraction, you would enter 1250 on line 2 ([.5 + .5 + .5] ÷ 12 = .1250).

This first year adjustment does not affect the amount of qualified basis on which the credit is claimed in the next 9 tax years. In general, the credit is claimed in those years by reference to the qualified basis at the close of each tax year. Because the first year credit is not determined solely by reference to the qualified basis at the close of the year, any reduction in credit resulting from the application of the first year adjustment may be determined at any time after the close of the 11th year. See the instructions for line 17.

Line 3. Generally, multiply line 1 by line 2 to figure the portion of the eligible basis of the building attributable to the low-income residential units.

Imputed qualified basis of zero. However, the qualified basis of the building (line 3) is zero if any of the following conditions apply.

• The minimum set-aside requirement was not met, or the entire building is out of compliance with the requirements under section 42.

• The deep rent skirted test (15-40 test) was not met, or the entire building is out of compliance with the requirements under section 42.

• The 15-40 test is a test that relates to the determination of a low-income tenant’s income. If this test is elected, at least 15% of all floor space in the building must be occupied at all times during the occupancy period by tenants whose income is 40% or less of the area median gross income. If there is an additional requirement under section 42(i)(3) for more details. Also see section 42(i)(3) for details. More on this topic can be found in the instructions for line 17.

• You disposed of the building or your entire interest therein during the tax year and did not follow the procedures (described earlier under Recapture and building dispositions) to prevent recapture. In addition to using an imputed basis of zero on line 3, you may have to recapture a portion of credits previously taken. See Form 8609-A, line 21, and report the recaptured amount. This paragraph affects only those taxpayers who dispose of the building or their entire interest therein. Those acquiring the building (or any interest therein) are not affected and, if the minimum set-aside requirements are otherwise satisfied, they may take a credit for the fraction of the year the building is owned by them.

Note. If the qualified basis of the building is zero, or if the building has an imputed qualified basis of zero, you may not claim a credit for the building for the tax year. You must enter zero on lines 3 and 16, and skip lines 4 through 15, 17, and 18.

At-risk limitation for individuals and closely held corporations. The basis of property may be limited if you borrowed against the property and are protected against loss, or if you borrowed money from a person who has other than a creditor interest in the property. See section 42(k).

Line 4. If you owned the building (or an interest therein) for the entire year, enter zero on line 4 and go to line 5.

Disposal of building or interest therein. If you disposed of a building or your entire interest therein during the tax year and you followed the procedures (described earlier under Recapture and building dispositions) to continue to claim the credit, you may claim a credit based only on the number of days of the tax year for which you owned the building or an interest therein.

The owner who has owned the building for the longest period in the month in which the change in ownership occurs is deemed to have owned the building for that month. If the seller and new owner have owned the building for the same amount of time during the month of disposition, the seller is deemed to have owned the building for that month.

Example. Both the buyer and the seller are calendar-year taxpayers. The sale takes place on May 25 of a 365-day calendar year. The qualified basis of the low-income residential building is $20,000. The seller and buyer will each complete a separate Form 8609-A, and enter the following amounts:

- The buyer will enter $11,726 on line 4 of his Form 8609-A.
- The seller will enter $11,726 on line 4 of his Form 8609-A.

Pass-through entities. If the building is owned by a pass-through entity, the entity does not need to make any adjustment on line 4, unless the entity either disposes of the building or its entire interest therein, or acquires the building for the following reasons during the tax year (and the entity previously had no interest in the building). Do not make an adjustment on line 4 for changes in the interests of the members of the pass-through entity during the tax year. Instead, the entity should multiply the amount of any changes in the amount of credit it passes through to its members.

Line 5. If the agency has made an allocation on Form 8609, enter on line 5 the credit percentage shown on Form 8609, Part I, line 2. This percentage must be shown on line 5 as a decimal carried out to at least four places (for example, 8.13% would be shown on line 5 as .0813).

Buildings placed in service before July 31, 2008. If you were allocated a 70% present value credit percentage for a building that was not federally subsidized (as defined on the date the building was placed in service) and the building later
receives a federal subsidy, your credit percentage is reduced to the 30% present value credit that was in effect during the month the building was placed in service or for the month elected under former section 42(d)(2)(A)(i), whichever applies. The 30% present value credit applies to the building for the year the federal subsidy was received and for the remainder of the compliance period, whether or not the federal subsidy is repaid. For the definition of federal subsidy that was in effect after July 31, 2008, see section 42(d)(2)(i)(II) (as in effect before July 31, 2008).

**Buildings placed in service after July 30, 2008.** If you were allocated a 70% present value credit percentage for a building placed in service on or after July 31, 2008, and you are not federal subsidized, the eligible basis of the building as of the date the building was placed in service is reduced to the 30% present value credit that was in effect after July 30, 2008 (as in effect after July 30, 2008). Special rules.

**Lines 7 Through 12**

If you are not claiming a credit for additions to qualified basis, skip lines 7 through 12 and go to line 13.

You may claim a credit for an addition to qualified basis only if the eligible basis on line 1 must have been allocated by the housing credit agency to cover these additions.

**Line 7.** An addition to qualified basis results when there is an increase in the number of low-income units or an increase in the floor space of the low-income units over that which existed at the close of the first year of the credit period (before application of the modified percentage calculation). Credits for an addition to qualified basis are claimed at the reduced credit percentage of two-thirds of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 through the end of the 15-year compliance period.

If you are claiming a credit for additions to qualified basis, you must subtract the original qualified basis of the building at the close of the first year of the credit period (see Form 8609, line 8a (Part II, line 2a, on the 1991 revision)) from the building's qualified basis entered on line 3. Enter the result on line 7. If the result is zero or less, skip lines 8 through 12 and enter the credit from line 6 on line 13.

**Line 8.** The determinations and calculations you make on line 8 follow the instructions for line 4. Therefore, if you owned the building (or an interest therein) for the entire year, enter zero on line 8 and go to line 9.

**Disposal of building or interest therein.** If you disposed of a building or your entire interest therein during the tax year, see **Disposal of building or interest therein** in the line 4 instructions; and, wherever line 3 and line 4 are referenced, substitute line 7 and line 8, respectively.

**Pass-through entities.** If the building is owned by a pass-through entity, see Pass-through entities in the line 4 instructions; and, wherever line 4 is referenced, substitute line 8 instead.

**Line 9.** The credit for additions to the building’s qualified basis is determined using two-thirds of the credit percentage allowable for the building’s original qualified basis. Therefore, one-third of the credit percentage (expressed as a decimal carried out to at least four places) on line 5 is not allowed. Enter line 9 one-third of the amount shown on line 5. This amount must be reported on line 9 as a decimal carried out to at least four places (for example, if a 30% credit percentage entered on line 5 is .0813, one-third of that percentage would be expressed as .0267). See section 42(d)(3)(i).

**Line 10.** If you owned the building, or had an interest therein, for the entire tax year, multiply line 7 by line 9. If you had no ownership interest in the building for a portion of the tax year, multiply line 8 by line 9.

**Line 11.** Additions to qualified basis must be adjusted to reflect the average portion of the year that the low-income units relating to the increase were occupied. This adjustment is required if the increase in qualified basis of the building exceeds the qualified basis (including additions to qualified basis) of the building in any prior taxable year. To determine this adjustment amount, complete the worksheet on page 13. Reduce the eligible basis on line 1 by the amount of any federal grant for the building, or the operation thereof, received during the 15-year compliance period. Special rules.

**Buildings placed in service before July 31, 2008.** Reduce the eligible basis on line 1 by the amount of any costs financed by the proceeds of a federal grant.

Regardless of the date the building was placed in service, figure the reduction as follows.

**Step 1.** Divide the total amount of all federal grants received for the building during the compliance period that did not already reduce the amount of the eligible basis (reported on line 1) by the eligible basis on line 1 of this Form 8609-A. Enter the result as a decimal carried out to at least four places.

**Note.** If the eligible basis on line 1 of this Form 8609-A was increased by a percentage allowable under section 42(d)(5)(B) (former section 42(d)(5)(C)) for buildings placed in service before July 31, 2008, see the instructions for line 3b of Form 8609, then increase the total amount of all federal grants in Step 1 by this percentage increase and divide this amount by the eligible basis on line 1 of this Form 8609-A. For example, if the percentage increase is 130% and all federal grants total $11,000, multiply $11,000 by 1.3000 and divide the result ($13,300) by the eligible basis to determine how much must be distributed according to each taxpayer’s respective ownership interest in the building. For example, if a building is owned by individuals A and B (60% by A and 40% by B), each would complete a separate Part II as follows. Lines 1 through 15 would be the same for each, assuming no part-year adjustments are necessary. However, A would enter 60% of line 15 on line 16, and B would enter 40% of line 15 on line 16. Therefore, enter line 16 your share of the line 15 credit (after adjustment for any applicable special rule) and multiply the result as a decimal carried out to at least four places.

**Step 2.** Multiply the decimal amount determined in Step 1 by the credit on line 13. Enter this result on line 14.

**Line 16.** To determine the amount to enter on line 16, see the information that follows in f, 2, 3, and Special rules.

1. If the building is owned completely by one taxpayer, enter the line 15 credit (after adjustment for any applicable special rule below) on line 16.

2. If the building is owned by more than one taxpayer, and those taxpayers are not members of the same pass-through entity, see line 15 credit (after adjustment for any applicable special rule below) on line 16.

The type and rule above prints on all proofs including departmental reproduction proofs. MUST be removed before printing.
line 16 would be based on 40% of the line 15 credit for the building. Similarly, although a taxpayer might not be subject to recapture upon a disposition of a de minimis portion (explained later) of the taxpayer’s interest in the building, no credit is allowed to the taxpayer for the percentage of the interest disposed of by the taxpayer. The credit allowed to the taxpayer for the tax year is determined by reference to the taxpayer’s remaining interest in the building at the close of the tax year.

If the taxpayer follows the procedures to prevent recapture, the taxpayer is allowed credit for the year both with respect to the ownership interest disposed of by the taxpayer and the interest retained by the taxpayer. For example, again assume that a taxpayer owns 100% of a building for the first 273 days in a 365-day calendar tax year and 40% of the building for the last 92 days of the year. After following procedures, the taxpayer’s credit on line 16 would be based upon 273/365 of 100% (or 74.79%) of the line 15 credit for the building plus 92/365 of 40% (or 10.08%) of the line 15 credit amount.

If a taxpayer follows the procedures to prevent recapture upon the disposition of the building or upon a disposition of the taxpayer’s entire interest in the building, the taxpayer’s line 16 credit amount is determined by multiplying the line 15 credit amount by the percentage interest in the building disposed of by the taxpayer. For example, if a building is owned by individuals A and B (60% by A and 40% by B) and on the last day of the fifth month of the tax year, C buys A’s 60% interest in the building and A follows the procedures, then A would enter 60% of line 15 on line 16. (Lines 4 and 8 have already taken into account the 5 months of the tax year that A held an interest in the building.)

De minimis recapture rule. For administrative purposes, the Service has adopted a de minimis rule that applies to partners in partnerships (other than partnerships to which section 462(j)(B) applies) owning interests in qualified low-income buildings. The rule allows a partner to elect to avoid or defer recapture resulting from a disposition of interest in a partnership without posting bond (in a situation where it was necessary to post bond to avoid or defer recapture) until the partner has disposed of more than 33 1/3% of the partner’s greatest total interest in the qualified low-income building through the partnership. See Rev. Rul. 90-60, 1990-2 C.B. 3, for more information on the de minimis rule. Upon application by the building owner, the IRS may waive any recapture of the low-income housing credit for any de minimis error in complying with the minimum set-aside requirements.

Line 17. The first-year credit may have been reduced based on the number of full months the building was in service. The deferred balance of the credit for the first year is allowed in the 11th year. Include it on line 17 as a positive amount.

For example, see the example under First-year modified percentage, earlier. If this is the 11th year, enter .8750 times the eligible basis of the building (line 1) times the credit percentage (line 5). The factor .8750 is 1.0000 minus .1250, the modified percentage figured for year one in the example.

Line 18. For buildings placed in service after December 31, 2007, the credit is no longer limited by the alternative minimum tax rules. The amount on line 18 will be reported on Form 8586 as follows:

Credit for buildings placed in service after January 1, 2008. Report this amount on line 3 of Form 8586.

Credit for buildings placed in service after December 31, 2007. Report this amount on line 10 of Form 8586.

Paperwork Reduction Act Notice. We ask for the information on these forms to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is:

- For buildings placed in service before December 31, 2007, the Service needs the information on these forms to administer the alternative minimum tax. You are required to give us this information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is:

- Recordkeeping

- Preparing and sending the form

- To the IRS

- If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service at the address listed in the instructions for the tax return with which this form is filed.

Line 11 Worksheet (Keep for Your Records)

1 Enter the qualified basis of the building from line 3 of this tax year’s Form 8609-A..................................... 1
2 Multiply the amount on line 1 of the previous year’s Form 8609-A by the amount on line 2 of that Form 8609-A.................. 2
3 Increased qualified basis. Subtract line 2 above from line 1 above. But if line 2 above is more than zero but less than the original qualified basis of the building entered on Form 8609, line 8a (Part II, line 2a on the 1991 revision), then enter the amount from line 7 of this Form 8609-A instead Note: If line 3 above is zero or less, do not complete the rest of this worksheet. Instead, enter -0- on line 11 of Form 8609-A and go to line 12.......................... 3
4 Modified percentage. For each month during the tax year, figure the increase, if any, in the low-income portion of the building for that month over the low-income portion of the building at the close of the previous tax year (the amount on line 2 of the previous year’s Form 8609-A). For example, if the previous year’s low-income portion of .5000 remained at .5000 for the first 9 months of this tax year and then increased to .7500 for October, November, and December, then subtract .5000 from .7500 to get an increase of .2500 for each month. Add these amounts together, divide by 12, and enter the result. (This amount must be shown as a decimal carried out to at least four places (for example, .2500 + .2500 + .2500 + .2500, divided by 12 = .0625).) .................. 4
5 Increased qualified basis entitled to reduced credit. Multiply line 4 above by Form 8609-A, line 1.................. 5
6 Increased qualified basis not entitled to reduced credit. Subtract line 5 above from line 3 above .................. 6
7 Line 11 modification. Multiply line 6 above by two-thirds of the amount on line 5 of Form 8609-A. Enter the result here and on line 11 of Form 8609-A.......................... 7

-4-