

Low-Income Housing Credit Allocation Certification

OMB No. 1545-0988
 Expires: 2-28-94

▶ Do not file separately. Building owner, attach this form, Form 8586, and Schedule A (Form 8609) to your income tax return.

Attachment
Sequence No. **36**

Part I Allocation of Credit—To Be Completed by Housing Credit Agency Addition to Qualified Basis Amended Form

A Address of building (do not use P. O. box)	B Name and address of housing credit agency
C Name and address of building owner receiving allocation	D Employer identification number of agency E Building identification number (BIN)

1a Date of allocation ▶/...../.....	1b	
2 Maximum applicable credit percentage allowable	2	%
3a Maximum qualified basis	3a	
b Check here <input type="checkbox"/> if the eligible basis used in the computation of line 3a was increased under the high cost area provisions of section 42(d)(5)(C). Enter the percentage by which the eligible basis was increased (see instructions) ▶ 1 ____ %		
4 Percentage of the aggregate basis financed by tax-exempt bonds	4	%
5 Date building placed in service ▶ / /		

Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined Part I of this form and to the best of my knowledge and belief, the information is true, correct, and complete.

-----▶ Signature of authorized official Name (please type or print) Date

Part II First-Year Certification—To Be Completed by Building Owner for First Year of Credit Period Only

1a Date building placed in service ▶...../...../.....	1b	
2a Original qualified basis of the building at close of first year of credit period	2a	
b Is the building part of a multiple building project? <input type="checkbox"/> Yes <input type="checkbox"/> No		
3 Check the box that describes the allocation for the building (check one only):		
a <input type="checkbox"/> Newly constructed and federally subsidized	b <input type="checkbox"/> Newly constructed and not federally subsidized	c <input type="checkbox"/> Existing building
d <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized	e <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures not federally subsidized	
4a If box 3a or box 3d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
b Do you elect to reduce eligible basis by disproportionate costs of non-low-income units (section 42(d)(3))? . <input type="checkbox"/> Yes <input type="checkbox"/> No		
5 Check the appropriate box for each election:		
a Elect to begin credit period the first year after the building is placed in service (section 42 (f)(1)) <input type="checkbox"/> Yes <input type="checkbox"/> No		
b Elect not to treat large partnership as taxpayer (section 42(j)(5)) <input type="checkbox"/> Yes		
c Elect minimum set-aside requirement (section 42(g)) (see instructions) <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> 25-60 (N.Y.C. only)		
d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) <input type="checkbox"/> 15-40		

Note: A separate **Schedule A (Form 8609)**, Annual Statement, must be attached to Form 8609 for each year of the 15-year compliance period after 1987.

Caution: Read the instructions under "Signature" (page 4) before signing this part.

Under penalties of perjury, I declare that: (1) the above building continues to qualify as a part of a qualified low-income housing project and meets the requirements of Internal Revenue Code section 42(g); (2) the qualified basis of the building has has not decreased for this tax year; and (3) I am not claiming any relief from the passive loss rules under section 502 of the Tax Reform Act of 1986 for this property. I have examined this form and accompanying schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

-----▶ Signature Taxpayer identification number Date

-----▶ Name (please type or print)

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.

The time needed to complete and file the following forms will vary depending on individual circumstances. The estimated average times are:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to IRS
8609	8 hr., 22 min.	2 hr., 23 min.	2 hr., 38 min.
Sch. A (8609)	7 hr., 10 min.	1 hr., 23 min.	1 hr., 34 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms more simple, we would be happy to hear from you. You can write to both the Internal Revenue Service and the Office of Management and Budget at the addresses listed in the instructions for the tax return with which these forms are filed.

General Instructions

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

Purpose of Form.—Sections 38 and 42 allow owners of residential low-income rental buildings to claim a low-income housing credit for each qualified building over a 10-year credit period. Form 8609 is used to obtain a housing credit allocation from the housing credit agency. Form 8609 and related **Schedule A (Form 8609)**, Annual Statement, are also used to certify certain necessary information under section 42.

Section 502(a) of the Tax Reform Act of 1986 provides transitional relief from the passive loss rules for qualified investors in a qualified low-income housing project. However, if any person has been allowed any benefit under section 502(a) for the project, the low-income housing credit is not allowed for the project.

Housing Credit Agency.—This means any state or local agency authorized under section 42 to make low-income housing credit allocations within its jurisdiction.

Owner of Building.—Owners must complete Part II of this form and a separate Schedule A (Form 8609), even if an allocation of credit by a housing credit agency is not required, and attach both the form and the schedule to their income tax return. See specific instructions before completing Part II.

Building Identification Number (BIN).—This number will be assigned by the housing credit agency.

For a building receiving separate allocations for the existing building and for rehabilitation expenditures, a separate Form 8609 must be completed for each credit allocation. However, rehabilitation expenditures treated as a separate new building under section 42(e) should not have a separate BIN if the building already has one. Use the number assigned to the building.

Allocation of Credit.—For an owner to claim a low-income housing credit on a building, the housing credit agency must make an allocation of the credit by the close of the calendar year in which the building is placed in service, unless—

- the allocation is the result of an advance binding commitment by the credit agency made not later than the close of

the calendar year in which the building is placed in service (see section 42(h)(1)(C));

- the allocation relates to an increase in qualified basis (see section 42(h)(1)(D)); or
- the allocation is made in a year in which the taxpayer has incurred more than 10% of its reasonably expected basis in the project (see sections 42(h)(1)(E), 42(h)(1)(F), and Notice 89-1, 1989-1 C.B. 620).

The agency can only make an allocation to a building located within its geographical jurisdiction. Once an allocation is made, it is good for the first tax year the credit is allowable and for all future years during the 10-year credit period. A separate Form 8609 must be completed for each building to which an allocation of credit is made.

Tax-Exempt Bonds.—No housing credit allocation is required for any portion of the eligible basis of a qualified low-income building that is financed with tax-exempt bonds taken into account for purposes of the volume cap under section 146. An allocation is not needed when 50% or more of the aggregate basis of the building and the land on which the building is located is financed with certain tax-exempt bonds for buildings placed in service after 1989.

However, the owner must still get a Form 8609 from the applicable housing credit agency (with Part I completed, including an assigned building identification number (BIN)) and must still complete the appropriate parts of Form 8609 and attach it to the owner's return.

Land on which the building is located includes only land that is functionally related and subordinate to the qualified low-income building (see Regulations section 1.103-8(b)(4)(iii) for the meaning of "functionally related and subordinate").

When To File.—Housing credit agencies should forward a copy of Form 8609 (Part I completed only) with instructions to the owner of the building. The housing credit agency must retain the original to send to the IRS with **Form 8610**, Annual Low-Income Housing Credit Agencies Report.

Owners must attach completed Forms 8609 and accompanying Schedules A (Form 8609) to **Form 8586**, Low-Income

Housing Credit, and file these forms with their income tax return by the due date of the return.

Do not attach Form 8609 or Schedule A (Form 8609) to Form 8586 if the credit claimed on Form 8586 is a flow-through credit from a partnership, S corporation, estate or trust because that entity will complete those forms and attach them to its return.

Recordkeeping Requirements.—To verify changes in qualified basis from year to year you must keep a copy of this Form 8609 together with all accompanying Schedule(s) A (Form 8609), Forms 8586, 8611, and 8693 for three years after the fifteen-year compliance period ends (unless this recordkeeping requirement is otherwise extended).

Specific Instructions

Part I—Allocation of Credit

Completed by Housing Credit Agency

Check the Addition to Qualified Basis box if an allocation relates to an increase in qualified basis under section 42(f)(3).

Line 1a.—Generally, the date of allocation is the date the Form 8609 is issued. However, if an allocation is made pursuant to sections 42(h)(1)(E) and 42(h)(1)(F), the date of allocation is the date specified in the document used by the housing credit agency to make the allocation.

Line 1b.—Enter the housing credit dollar amount allocated to the building for each year of the 10-year credit period. If there is a change in the amount of initial allocation before the close of the calendar year, file an amended Form 8609 in place of the original form and check the Amended Form box at the top of Form 8609.

Line 2.—Enter the maximum applicable credit percentage allocated to the building for the month the building was placed in service or, if applicable, for the month determined under section 42(b)(2)(A)(ii).

If an election is made under section 42(b)(2)(A)(ii) to use the applicable percentage for a month other than the month in which a building is placed in service, the requirements set forth in Notice 89-1 must be met. The agency must retain a copy of the binding agreement and the election statement and file the original with the agency's Form 8610 for the year the allocation is actually made. The maximum applicable credit percentage is published monthly by the IRS in the revenue ruling that deals with applicable federal interest rates. For new buildings that are not federally subsidized under section 42(i)(2)(A) when placed in service, use the applicable percentage for the 70% present value credit; for new buildings that are federally subsidized when placed in service, or existing buildings, use the applicable percentage for the 30% present value credit. A taxpayer may elect under section 42(i)(2)(B) to reduce eligible basis by the principal amount of any outstanding

below-market federal loan or the proceeds of any tax-exempt obligation in order to obtain a higher credit percentage (see Part II, line 4a).

For allocations to buildings covering additions to qualified basis, do not reduce the maximum applicable credit percentage even though the building owner may only claim a credit based on two-thirds of the credit percentage allocated to the building.

Line 3a.—Enter the maximum qualified basis of the building. To figure this, multiply the eligible basis of the qualified low-income building by the lesser of:

(1) the percentage of low-income units to all residential rental units (the “unit percentage”), or

(2) the percentage of floor space of the low-income units to the floor space of all residential rental units (the “floor-space percentage”).

Generally, a unit is not treated as a low-income unit unless it is suitable for occupancy and is used other than on a transient basis. Section 42(i)(3) provides for certain exceptions (e.g., units that provide for transitional housing for the homeless may qualify as low-income units). See sections 42(i)(3) and 42(c)(1)(E) for more information.

Except as explained in line 3b, the **eligible basis** for a new building is its adjusted basis as of the close of the first tax year of the credit period. For an existing building, the eligible basis is its acquisition cost plus capital improvements. See the instructions for Part II, line 1b, and section 42(d) for other exceptions and details.

Line 3b. Special rule to increase basis for buildings placed in service in calendar years beginning after 1989.—If the building is located in a high cost area (i.e., a “qualified census tract” or a “difficult development area”), the eligible basis may be increased as follows:

- for new buildings, the eligible basis may be 130% of such basis determined without this provision.
- for existing buildings, the rehabilitation expenditures under section 42(e) may be 130% of the expenditures determined without regard to this provision.

Note: This special rule to increase basis is not available for federally subsidized buildings.

Enter the percentage by which eligible basis was increased on line 3b, Part I. For example, if the eligible basis was increased by 120%, enter 120. See section 42(d)(5)(C) for definitions of a qualified census tract and a difficult development area, and for other details.

Note: Form 8609 (Rev. 12-88) did not contain line 3b, Part I, or instructions on the high-cost area provisions. Accordingly, if the housing credit agency used the December 1988 revision of Form 8609 to make a 1990 tax year credit allocation in which it applied the high-cost area provision, it should report separately to the applicant the percentage by which eligible basis was increased. The applicant

uses the increased eligible basis to figure the increased credit on Schedule A (Form 8609).

Line 4.—Enter the percentage of the aggregate basis of the building financed by certain tax-exempt bonds. If this amount is zero, enter zero (do not leave this line blank).

Line 5.—The placed-in-service date for a residential rental building is the date on which the first unit in the building is ready and available for occupancy in accordance with state or local law. Rehabilitation expenditures treated as a separate new building under section 42(e)(4)(A) are placed in service at the close of any 24-month period over which such expenditures are aggregated, whether or not the building is occupied during the rehabilitation period.

Part II—First-Year Certification

Completed by Building Owner for the First Year of Credit Period Only

Line 1a.—See the instructions for line 5 in Part I. This date must correspond with the date certified to the housing credit agency.

Line 1b.—Enter the eligible basis (in dollar terms) of the building. Determine eligible basis at the close of the first year of the credit period (see sections 42(f)(1), 42(f)(5), and 42(g)(3)(B)(iii) for determining the start of the credit period).

For new buildings, the eligible basis is generally the cost of construction or rehabilitation expenditures incurred under section 42(e).

For existing buildings, the eligible basis is the cost of acquisition plus rehabilitation expenditures not treated as a separate new building under section 42(e) incurred by the close of the first year of the credit period.

If the housing credit agency has entered an increased percentage on line 3b, Part I, multiply the eligible basis by the increased percentage and enter the result on line 1b, Part II.

Note: Generally, no credit is allowable for an existing building receiving a credit allocation after 1989 unless substantial rehabilitation is done. See sections 42(d)(2)(B)(iv) and 42(f)(5).

Residential rental property may qualify for the credit even though part of the building in which the residential units are located is used for commercial use. To figure the eligible basis of such property, do not include the cost of the nonresidential rental property. However, you may generally include the basis of common areas or tenant facilities, such as swimming pools or parking areas, provided there is no separate fee for the use of these facilities and they are made available on a comparable basis to all tenants in the project. See section 42(d).

You may elect to reduce eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation to obtain a higher credit percentage. If

you make this election, check the Yes box in Part II, line 4a, and reduce eligible basis by the principal amount of such loan or obligation proceeds before entering the amount on line 1b. In addition, you must reduce the eligible basis by the amount of any federal grant received.

Note: You must reduce eligible basis by the principal amount of such loan or obligation proceeds or any federal grant received before multiplying the eligible basis by the increased percentage on line 3b, Part I.

Eligible basis must also be reduced by the entire basis allocable to non-low-income units that are above the average quality standard of the low-income units in the building. You may, however, include a portion of the basis of these non-low-income units if the cost of any of these units: (a) does not exceed by more than 15% the average cost of all low-income units in the building, and (b) you elect by checking the Yes box for line 4b to exclude this excess cost from eligible basis.

Finally, eligible basis may not include any portion of a building's adjusted basis for which an election was made under section 167(k) prior to 11-5-90.

Line 2a.—Multiply the eligible basis of the building shown on line 1b by the lesser of the unit percentage or the floor space percentage as of the close of the first year of the credit period. Low-income units are units occupied by qualifying tenants, while residential rental units are all units, whether or not occupied. See the instructions for Part I, line 3a, above.

Line 2b.—Check the appropriate box in line 2b to indicate whether or not the building for which basis is entered on line 2a is part of a multiple building project. A multiple building project is a project that includes more than one qualified low-income building that must: (a) be located on the same tract of land, (b) be owned by the same person for federal income tax purposes, (c) be financed pursuant to a common plan of financing, and (d) have similarly constructed housing units. However, buildings that would, but for their lack of proximity, be treated as a project shall be so treated if all of the dwelling units in each of the buildings are low-income units. See section 42(g)(7). A qualified low-income building includes residential rental property that is either an apartment building, a single family dwelling, a townhouse, a rowhouse, a duplex, or a condominium. Taxpayers electing under section 42(g)(3)(B) to aggregate buildings to satisfy the minimum set-aside requirement elected for the project under section 42(g)(1) must check the Yes box.

Line 3.—A building is treated as federally subsidized for any tax year if at any time during the tax year or any prior tax year there is or was outstanding any tax-exempt bond financing or any below-market federal loan, the proceeds of which are or were used (directly or indirectly) for the building or its operation.

Line 4a.—Section 42(i)(2)(B) allows an owner to elect to reduce the eligible basis by the principal amount of any outstanding below-market federal loan or the proceeds of any tax-exempt obligation and claim the 70% present value credit on the remaining eligible basis. However, if such an election is made, the taxpayer may not claim the 30% present value credit on the portion of the basis that was financed with the below-market federal loan or the tax-exempt obligation.

Line 4b.—See the instructions for Part II, line 1b, above.

Line 5.—

(a) Section 42(f)(1) allows an owner of a building to elect to begin the credit period in the tax year after the building is placed in service.

Note: Section 42(g)(3)(B)(iii) provides special rules for determining the start of the credit period for certain multiple building projects.

(b) Section 42(j)(5) requires partnerships with 35 or more partners to be treated as the taxpayer for purposes of recapture unless an election is made not to treat the partnership as the taxpayer. Check the Yes box if you do not want the partnership to be treated as the taxpayer for purposes of recapture.

(c) The owner of a qualified low-income housing project must meet the minimum set-aside requirements under section 42(g) by electing one of the following tests: (1) 20-50 Test: 20% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 50% or less of the area median gross income, or (2) 40-60 Test: 40% or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income.

Check the appropriate box for the test you wish to elect.

Note: Owners of buildings in projects located in New York City may not use the 40-60 test. Instead, they may use a 25-60 test: 25 % or more of the residential units in the project must be both rent restricted and occupied by individuals whose income is 60% or less of the area median gross income (see also section 142(d)(6)).

Important: For buildings receiving a credit allocation after 1989, the minimum set-aside requirement must be met by the close of the first year of the credit period in order to claim any credit for the first year or for any subsequent years. Buildings that only received credit allocations before 1990, and certain tax-exempt bond-financed buildings placed in service before 1990 have until the close of the tax year following the tax year the buildings were placed in service to meet this requirement.

(d) The deep rent skewed 15-40 election is not an additional test for satisfying the minimum set-aside requirements of section 42(g). The 15-40 test is an election that relates to the determination of a low-income tenant's income. Generally, a continuing resident's income may increase but not exceed 140% of the applicable income limit (50% or less OR 60% or less of the area median gross income under the minimum set-aside rules in (c) above). When the deep rent skewed election is made, the income of a continuing resident may increase up to 170% of the applicable income limit. If this election is made, at least 15% of all low-income units in the project must be occupied at all times during the compliance period by tenants whose income is 40% or less of the area median gross income. A deep rent skewed project itself must meet the requirements of section 142(d)(4)(B).

Once made, the elections under (a), (b), (c), and (d) above are irrevocable. For more information, see sections 42(g) and 142(d).

Signature.—Form 8609 must be attached to your income tax return each year during the compliance period beginning with the first year the credit is claimed. Because Form 8609 requires an original signature each year and the form is not issued annually by the housing credit agency, complete the following steps after you receive the form from the agency:

(a) Complete Part II of the form (do not sign it).

(b) After completing Part II, make a copy of the form.

(c) **SIGN THE COPY**, and keep the original copy you receive from the housing credit agency so that copies can be made from the unsigned original copy and used for filing with your future years' income tax returns.

(d) Complete separate Schedule A (Form 8609) for each building and attach it to the signed copy of Form 8609 which you attach to your income tax return. See the instructions for Schedule A for details on completing Schedule A. You can get Schedule A from most I.R.S. offices.

(e) If the maximum applicable credit percentage allocated to the building in Part I, line 2, reflects an election made under section 42(b)(2)(A)(ii), the taxpayer must attach a copy of the election statement and, if the binding agreement specifying the housing credit dollar amount is contained in a separate document, a copy of the binding agreement to Form 8609 for the first tax year in which the credit is claimed. (See Notice 89-1.)

(f) If the housing credit dollar amount allocated in Part I, line 1b, reflects an allocation made under sections 42(h)(1)(E) and 42(h)(1)(F), the taxpayer must attach a copy of the allocation document to Form 8609 for the first tax year in which the credit is claimed. (See Notice 89-1.)