

General Instructions

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

Purpose of Form

Housing credit agencies use Form 8823 to fulfill their responsibility under section 42(m)(1)(B)(iii) to notify the IRS of noncompliance with the low-income housing tax credit provisions.

File a separate form for each building that is not in compliance.

Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building is not in compliance with the provisions of section 42 must file Form 8823.

When To File

File Form 8823 no later than 45 days after the end of the time allowed the building owner to correct the condition(s) that caused noncompliance. For details, see Regulations section 1.42-5(e).

Where To File

File Form 8823 with the Internal Revenue Service Center, Philadelphia, PA 19255.

Specific Instructions

Items 2, 4, and 11

If there is more than one owner (other than as a member of a flow-through entity), attach a schedule listing the owners, their addresses, and their taxpayer identification numbers. Indicate whether each owner's taxpayer identification number is an employer identification number (EIN) or a social security number (SSN).

Both the EIN and the SSN have nine digits. An EIN has two digits, a hyphen, and seven digits. An SSN has three digits, a hyphen, two digits, a hyphen, and four digits and is issued only to individuals.

Item 3

Enter the building identification number (BIN) assigned to the building by the housing credit agency as shown on Form 8609.

Item 6d

"Reviewed by agency" includes physical inspection of the property, tenant file inspection, or review of documentation submitted by the owner.

Item 7

Enter the date that the building ceased to comply with the low-income housing credit provisions. If there are multiple noncompliance issues, enter the earliest date that any issue was discovered.

Item 8

Enter the date that the noncompliance issue was corrected. If there are multiple issues, enter the date the last correction was made.

Item 9

Do not check this box until **all** previously reported noncompliance issues have been corrected.

Item 10c

Examples of major violations of health, safety, and building codes include:

- Structural and roof problems.
- Blockage of fire exits.
- Elevators functioning improperly.
- Smoke detectors or sprinklers not functioning.
- Pest infestation.
- Serious electrical, heating, or plumbing problems.
- Common area safety lighting problems.

Item 10d

Minor violations of health, safety, and building codes are those that require correction but do not impair essential services and safeguards for tenants.

Item 10f

Changes in eligible basis occur when common areas become commercial, fees are charged for facilities, etc.

Item 10i

Low-income housing credit properties are subject to Title VIII of the Civil Rights Act of 1968, also known as the Fair Housing Act. It prohibits discrimination in the sale, rental, and financing of dwellings based on race, color, religion, sex, national origin, familial status, and disability. See 42 U.S.C. sections 3601 through 3619.

It also mandates specific design and construction requirements for multifamily housing built for first occupancy after March 13, 1991, in order to provide accessible housing for individuals with disabilities. The failure of low-income

housing credit properties to comply with the requirements of the Fair Housing Act will result in the denial of the low-income housing tax credit on a per-unit basis.

The Department of Housing and Urban Development (HUD) enforces the Fair Housing Act. Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual from HUD by calling (800) 343-3442.

Item 10s

Check this box for violations other than those listed in 10a through 10r. Attach an explanation.

Paperwork Reduction Act Notice. We ask for the information on this form 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 average time is:

Recordkeeping 6 hr., 42 min.

Learning about the law or the form 30 min.

Preparing and sending the form to the IRS. 38 min.

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 Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **DO NOT** send Form 8823 to this address. Instead, see **Where To File** above.