Form **8823**
(Rev. February 2004)
Department of the Treasury
Internal Revenue Service

Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

Note: *File a separate Form 8823 for each building that is disposed of or goes out of compliance.*

OMB No. 1545-1204

1 Building name (if any). Check if item 1 differs from Form 8609 ▶ ☐

Street address

City or town, state, and ZIP code

2 Owner's name. Check if item 2 differs from Form 8609 ▶ ☐

Continuation

Street address

City or town, state, and ZIP code

3 Building identification number (BIN)

4 **Owner's** taxpayer identification number ☐ EIN ☐ SSN

5 If this building is part of a multiple building project, enter the number of buildings in the project . . . . . ▶

6a Total number of residential rental units in this building . . . . . ▶

b Total number of low-income units in this building . . . . . ▶

c Total number of residential units in this building determined to have noncompliance issues . . . . . ▶

d Total number of units reviewed by agency (see instructions) . . . . . ▶

7 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY) .

8 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY) . . . . . .

9 Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . . . ▶ ☐

10 Check the box(es) that apply:

		Out of compliance	Noncompliance corrected
a	Household income above income limit upon initial occupancy	☐	☐
b	Major violations of UPCS or local inspection standards (see instructions) (attach explanation)	☐	☐
c	Minor violations of UPCS or local inspection standards (see instructions) (attach explanation)	☐	☐
d	Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	☐	☐
e	Changes in eligible basis or the applicable percentage (see instructions)	☐	☐
f	Project failed to meet minimum set-aside requirement (20/50, 40/60 test) (see instructions)	☐	☐
g	Gross rent(s) exceed tax credit limits	☐	☐
h	Project not available to the general public (see instructions) (attach explanation)	☐	☐
i	Available unit rule or vacant unit rule violation	☐	☐
j	Project is no longer in compliance nor participating in the low-income housing tax credit program (attach explanation)	☐	
k	Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	☐	☐
l	Low-income units occupied by nonqualified full-time students	☐	☐
m	Owner failed to maintain or provide tenant income certification and documentation	☐	☐
n	Owner did not properly calculate utility allowance	☐	☐
o	Owner has failed to respond to agency requests for monitoring reviews	☐	☐
p	Low-income units used on a transient basis (attach explanation)	☐	☐
q	Other noncompliance issues (attach explanation)	☐	☐

11 Additional information for any item above. Attach explanation and check here . . . . . ▶ ☐

12 Building disposition

a Building disposed of by: ☐ Sale ☐ Foreclosure ☐ Destruction ☐ Other (attach explanation)

b New owner's name and address:

Name

Continuation

Street address

City or town, state, and ZIP code

c Date of building disposition (MMDDYYYY)

d **New owner's** taxpayer identification number ☐ EIN ☐ SSN

13 State housing agency employer identification number

14 Name and telephone number of contact person

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and to the best of my knowledge and belief, it is true, correct, and complete.

▶ Signature of authorizing official ▶ Print name and title ▶ Date

For Paperwork Reduction Act Notice, see back of form.

Cat. No. 12308D Form **8823** (Rev. 2-2004)

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 **or** any building disposition.

Who Must File

Any authorized housing credit agency that becomes aware that a low-income housing building was disposed of or 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 **(a)** the building was disposed of or **(b)** 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, 12b, and 12d. If there is more than one owner (other than as a member of a pass-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 date for the earliest discovered issue. **Do not** complete item 7 for a building disposition. Instead, skip items 8 through 11, and complete item 12.

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 unless the sole reason for filing the form is to indicate that previously reported noncompliance problems have been corrected.

Item 10b. State housing credit agencies can use either local health, safety and building codes or the standards contained in the Uniform Physical Conditions Standards (UPCS)(24 CFR section 5.703) to inspect the property (i.e., site, building exterior, building systems, common area, and dwelling units) to determine whether the property is suitable for occupany. In accordance with the requirements of Regulations section 1.42-5(e)(3), report to the IRS all inspection deficiencies whether or not the noncompliance or failure to certify is corrected. Examples of major violations include: HVAC does not function; pest infestation; missing/non-functional smoke detectors, including missing batteries; blockages of fire exits or missing/not visible exit signs; entry or fire doors that are not functioning or cannot be locked because of damage; non-operable elevators; electrical hazards; excessive garbage and debris; improperly stored flammable materials; air quality issues such as propane/natural gas/sewer gas detected and mold or mildew; and lavatory or kitchen sinks that are either missing or not functioning.

Item 10c. This category is used to report minor violations under the UPCS or local inspection standards. Examples of minor violations include: HVAC system shows signs of abnormal vibrations, other noise, or leaks when engaged but the system still provides enough heating or cooling to maintain a minimum temperature range in the living areas; a window is not functioning but can be secured; or a screen door or storm door is damaged or is missing screens or glass.

Item 10d. Report the failure to provide annual certifications or provided certifications that are known to be incomplete or inaccurate as required by Regulations section 1.42-5(c). As examples, report a failure by the owner to include a statement summarizing violations (or copies of the violation reports) of local health, safety, or building codes; report an owner who provided inaccurate or incomplete statements concerning corrections of these violations.

Item 10e. Report any federal grant made with respect to any building or the operation thereof during any taxable year in the compliance period. Report changes in common areas which become commercial, when fees are charged for facilities, etc. In addition, report any below market Federal loan or any obligation the interest on which is exempt from tax under section 103 that is or was used (directly or indirectly) with respect to the building or its operation during the compliance period and that was not taken into account when determining eligible basis at the close of the first year of the credit period.

Item 10f. Failure to satisfy the minimum set-aside requirement in the first year of the credit period results in the permanent loss of the entire credit.

Failure to maintain the minimum set-aside requirement in any year after the first year of the credit period results in recapture of previously claimed credit and no future credit can be claimed. However, an owner who later meets the minimum set-aside requirement may resume claiming credit.

Item 10h. 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.

Individuals with questions about the accessibility requirements can obtain the Fair Housing Act Design Manual from HUD by calling 1-800-245-2691 and request item number HUD 11112.

Item 10i. The owner must rent to low-income tenants all comparable units that are available or that subsequently become available in the same building in order to continue treating the over-income unit(s) as a low-income unit. All units affected by a violation of the available unit rule may not be included in qualified basis. When the percentage of low-income units in a building again equals the percentage of low-income units on which the credit is based, the full availability of the credit is restored. Thus, only check the "Noncompliance corrected" box when the percentage of low-income units in the building equals the percentage on which the credit is based.

Item 10q. Check this box for noncompliance events other than those listed in 10a through 10p. Attach an explanation. For example, report any decrease in qualified basis of a building. For projects with allocations from the nonprofit set-aside under section 42(h)(5), report the lack of material participation by a non-profit organization (i.e., regular, continuous, and substantial involvement) that the housing credit agency learns of during the compliance period.

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	7 hr., 39 min.
Learning about the law or the form	30 min.
Preparing and sending the form to the IRS	39 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 Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743- 0001. **Do not** send Form 8823 to this address. Instead, see **Where To File** above.