Maryland
DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT

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Federal Low-Income Housing Tax Credit (LIHTC) Program Annual Income Recertification Exemption Procedures

The Housing and Economic Recovery Act of 2008 (HERA) provides an exemption from tenant annual income recertification requirements for 100 percent affordable LIHTC properties. The following guidelines are the Maryland Department of Housing and Community Development's (DHCD) implementation procedures for the exemption:

A. Effective Date

March 12, 2009

B. Project Eligibility Criteria

1. The property's buildings must have 100% of the units set aside for tax credit eligible families.

2. 24 months must have passed since the end of the calendar year in which the last building in the project was placed in service to ensure that, at a minimum, all initial households in the project have been recertified at least once.

3. The first on-site physical unit inspection and file review must have been completed in a satisfactory manner.

4. The project must not have any outstanding issues of continuing non-compliance as evidenced by Form(s) 8823 on file with the IRS.

C. Owner Implementation Notification

Owners of eligible properties **are required** to notify DHCD of their intent to implement the recertification exemption. Notification is to be provided through the submission of the applicable "Owner's Certification of Annual Tenant Income Recertification Exemption Eligibility" form (Attachment A or B).

Attachment A is to be used for properties with other financing sources which **do not** require an annual tenant income recertification. Examples of financing sources which do not require an annual recertification include:

- Private financing

- Rental Housing Production Program (RHPP) funding
- Maryland Housing Rehabilitation Program (MHRP) funding
- Nonprofit Rehabilitation Program (NRP) funding
- Elderly Rental Housing Program (ERHP) funding
- Tax-Exempt Revenue Bond funding inclusive of DHCD's Multifamily Bond Program (MBP)
- Federal HOME funds (Owners must continue to comply with applicable Federal HOME Program regulations governing tenant income re-examinations for HOME-designated units.)

Attachment B is to be used for properties with other financing sources which **do require** an annual tenant income recertification. Owners under this category are exempt from conducting an annual recertification for §42 purposes on the tax credit units only. However, owners must continue to comply with the other funding source requirements. Examples of financing sources which do require an annual recertification include:

- Rural Housing Service Program funding
- Section 8 Project-Based Rental Assistance Program funding
- Maryland Partnership Housing Program (PRHP) funding

The effective date of the recertification exemption shall be the **first day of the month following notification to DHCD** and shall remain in effect until the end of the 15-year compliance period. The recertification exemption will remain in effect through the extended use period governed by the Extended Low-Income Housing Covenant (ELIHC) unless the Department issues guidance to the contrary. However, the exemption may be revoked if the IRS or CDA determines that a project owner has violated the ELIHC or §42 of the Code in a manner that is sufficiently serious to warrant revocation.

D. Ongoing Procedures

Note: The exemption is in effect for all low-income tenants in the building who have previously had their annual income verified, documented, and certified through the initial certification and the first annual recertification.

Existing Tenants

Upon the effective date of the exemption, an annual recertification for existing tenants (assuming they have already had their **first** annual recertification) must be completed by using the "Resident Annual Income Self-Recertification" form (Attachment C). Information on the form does not require verification by the property owner. All adult household members must sign the form certifying that the information is true and correct.

New Tenants

New families moving into a building, even if moving from another building in the project, must still qualify and have their income verified by a third party at initial lease-up and at the first annual

recertification prior to implementing the exemption. The exemption may be implemented upon the second recertification through the use of the Resident Annual Income Self-Recertification form.

E. Properties with Previously Approved Recertification Waivers:

Owners with previously approved recertification waivers under IRC §42(g) (8) (B) are automatically eligible for the exemption and are not required to provide any notification to CDA. However, note that the above procedure must be followed for **new families** leasing at properties with previously approved recertification waiver.

Attachment A – Owner's Certification of Annual Tenant Income Recertification Exemption Eligibility

For tax credit properties with other financing sources which do not require annual tenant income recertifications

To: Maryland Department of Housing and Community Development
Community Development Administration/Multifamily Housing Programs
7800 Harkins Road
Lanham, MD 20706
Attention: Caty Waterman, Director, Compliance and Administration

Submission Date: _____

Exemption Effective Date (First Day of Month Following Submission Date): _____

Property Name: _____

Bin Number(s): _____

Property Address(s): _____

The undersigned _____ on behalf of

_____ (the "Ownership Entity") hereby certifies that:

1. The property's building(s) is (are) 100% low-income use.
2. 24 months have passed since the end of the calendar year in which the last building in the project was placed in service.
3. The first on-site physical inspection and file review have been satisfactorily completed.
4. The project does not have any outstanding issues of continuing non-compliance as evidenced by Form(s) 8823 on file with the IRS.
5. The property does not have any financing associated with it which requires annual tenant income recertifications with supporting third-party verifications.

Ownership Entity Per Covenant: _____

By[2]: _____

Date: _____

Typed Name:_____

Title: _____

[2] Only the contact person designated by the covenant is permitted to sign this form, unless an alternate has been designated by such person in writing to CDA.

Attachment B – Owner's Certification of Annual Tenant Income Recertification Exemption Eligibility

For tax credit properties with other financing sources which do require annual tenant income recertifications

To: Maryland Department of Housing and Community Development
Community Development Administration/Multifamily Housing Programs
7800 Harkins Road
Lanham, MD 20706
Attention: Caty Waterman, Director, Compliance and Administration

Submission Date: _____

Exemption Effective Date (First Day of Month Following Submission Date): _____

Property Name: _____

Bin Number(s): _____

Property Address(s): _____

The undersigned _____ on behalf of

_____ (the "Ownership Entity") hereby certifies that:

1. The property's building(s) is (are) 100% low-income use.
2. Twenty-four (24) months have passed since the end of the calendar year in which the last building in the project was placed in service.
3. The first on-site physical inspection and file review have been satisfactorily completed.
4. The project does not have any outstanding issues of continuing non-compliance as evidenced by form(s) 8823 on file with the IRS.
5. The exemption is only for the tax credit units and the ownership entity will continue to adhere to other funding source requirements.

Ownership Entity Per Covenant: _____

By[3]: _____

Date: _____

Typed Name: _____

Title: _____

[3] Only the contact person designated by the covenant is permitted to sign this form, unless an alternate has been designated by such person in writing to CDA

Attachment C – Resident Annual Income Self-Recertification

To be used in place of annual certification process if property is eligible for the IRS Tax Credit recertification exemption, or after Year 15 if required by other funding sources.

Property Name: _____

Unit Address: _____

Household Name: _____

Number of Persons in Household: _____

INCOME

Total **GROSS** annual household income (for next 12 months): _____

NOTE: This should include *anticipated* income from *all* household members combined. Income includes wages, salaries, and tips (for all household adults over age 18), as well as public assistance, Social Security benefits, retirements benefits, child support, or any other regular non-wage income, for *any* household member.

DEMOGRAPHICS

(Demographic information is voluntary and for statistical purposes only)

Race/Ethnicity (based on Head of Household) – Please check below:

Race/Ethnicity

- ☐ White
- ☐ Black or African-American
- ☐ Asian
- ☐ American Indian or Alaskan Native
- ☐ Native Hawaiian or Other Pacific Islander
- ☐ Hispanic or Latino
- ☐ Other Multi-Racial

STUDENT STATUS

Is everyone in your household currently or is everyone in your household intending to be fulltime students during the next 12 months?

◯ YES ◯ NO

I agree to notify management immediately if our household student status changes. I understand that changes in student status may affect my household's eligibility to participate in this program.

I certify under penalties of perjury that the above information is true and complete to the best of my knowledge and belief. I understand that false or incomplete income information is a violation of the terms of my lease and can be grounds for eviction. I agree to furnish any additional income or other documentation required by the property owner/management to determine my eligibility.

Head of Household Signature: _____

Date: _____

Co-Resident Signature (if applicable): _____