

TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION



Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

January 26, 2022

Report Number: 2022-30-012

The report has cleared the Treasury Inspector General for Tax Administration disclosure review process and information determined to be restricted from public release has been redacted from this document..

HIGHLIGHTS: Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Final Audit Report issued on January 26, 2022

Report Number 2022-30-012

Why TIGTA Did This Audit

This audit was initiated because the previous Chairman, U.S. Senate Committee on the Budget, requested information about the Low-Income Housing Tax Credit (LIHTC) program as part of the committee's evaluation of the economy, efficiency, and effectiveness of Federal housing assistance programs. The IRS has primary oversight responsibility of the LIHTC program. This review assessed IRS processes and procedures to ensure housing credit agency (HCA), building owner, and taxpayer compliance with the provisions.

Impact on Taxpayers

The LIHTC program was created as a tax incentive to encourage the development and rehabilitation of affordable rental housing. In general, the program provides credits to building owners to offset construction costs in exchange for building owners agreeing to reserve a certain portion of rent-restricted units for lower income households. Buildings must meet low-income housing requirements over a 15-year compliance period for building owners to claim the credits over a 10-year credit period.

The Joint Committee on Taxation estimated that the tax expenditures for the LIHTC were approximately \$7.1 billion for Fiscal Year 2014 and will increase to \$11.6 billion for Fiscal Year 2024.

What TIGTA Found

Forms submitted for the LIHTC program had significant issues with data reliability, reconciliation discrepancies, and missing first-year elections that increased the risk of undetected errors and noncompliance. In addition, TIGTA found nonprofit set-asides below the minimum requirement, certification discrepancies, and inconsistent reporting of building noncompliance and dispositions.

There were potentially large dollar amounts of questionable LIHTC claims based on information from key forms and schedules submitted to the IRS. For example, approximately 67,000 LIHTC claims for Tax Years 2015 through 2019 totaling almost \$15.6 billion lacked or did not match supporting documentation due to potential reporting errors or noncompliance.

Recent IRS examination activity has not identified significant noncompliance. Only a small number of tax returns claiming the LIHTC are selected each year for examination, and one-third were closed before an examination was conducted. For those examined, most resulted in no additional tax assessment (no-change). This examination no-change rate is significantly higher than the average for examinations of similar taxpayers.

Average No-Change Percentage for Examinations Closed During Fiscal Years 2016 Through 2019

LIHTC Examinations	56%
All Examinations of Similar Taxpayers	11%

For Calendar Years 2003 through 2019, the IRS conducted compliance monitoring reviews for only eight of the 56 HCAs that have LIHTC program administrative responsibilities. Due to Coronavirus Disease 2019 pandemic limitations, no reviews were conducted in Calendar Year 2020 or planned for Calendar Year 2021.

What TIGTA Recommended

TIGTA made seven recommendations that included additional system validity checks are implemented to improve the accuracy and reliability of the information in the LIHTC database; establishing an examination selection process for questionable LIHTC claims; and allocating additional resources, when available, to allow for increased compliance monitoring reviews of the HCAs.

The IRS agreed with five of the seven recommendations. However, the IRS disagreed with TIGTA's recommendation to develop an action plan to identify possible causes and correct reporting errors on LIHTC documents, stating that these reporting errors are corrected through existing processes. However, TIGTA identified approximately 67,000 LIHTC claims totaling almost \$15.6 billion that lacked or did not match supporting documents. Therefore, TIGTA continues to recommend that the IRS make additional efforts to determine the causes of these errors. The IRS also disagreed to allocate additional resources, when available, to increase HCA compliance monitoring reviews. However, TIGTA found that 25 HCAs were identified for contact, which could take many years based on past resource commitments.



TREASURY INSPECTOR GENERAL
FOR TAX ADMINISTRATION

U.S. DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

January 26, 2022

MEMORANDUM FOR: COMMISSIONER OF INTERNAL REVENUE

A handwritten signature in blue ink that reads "Michael E. McKenney".

FROM: Michael E. McKenney
Deputy Inspector General for Audit

SUBJECT: Final Audit Report – Oversight of the Low-Income Housing Tax Credit Program Can Be Improved (Audit # 202030014)

This report presents the results of our review to assess the Internal Revenue Service's processes and procedures to ensure housing credit agency, building owner, and taxpayer compliance with Low-Income Housing Tax Credit provisions. Before retiring in January 2021, Senator Michael Enzi, Chairman of the U.S. Senate Committee on the Budget, requested information about this program as part of the committee's evaluation of the economy, efficiency, and effectiveness of Federal housing assistance programs. This review was part of our Fiscal Year 2021 Annual Audit Plan and addresses the major management and performance challenge of *Reducing Fraudulent Claims and Improper Payments*.

Management's complete response to the draft report is included as Appendix V.

Copies of this report are also being sent to the Internal Revenue Service managers affected by the report recommendations. If you have any questions, please contact me or Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations).

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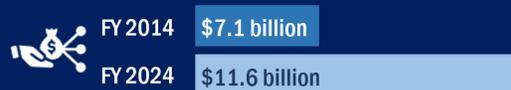
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Background

The Low-Income Housing Tax Credit (LIHTC) program was created as part of the Tax Reform Act of 1986 as a tax incentive to encourage the development and rehabilitation of affordable rental housing.¹ In general, the program provides LIHTCs to building owners to offset construction costs in exchange for building owners agreeing to reserve a certain portion of rent-restricted units for lower income households. Buildings must meet low-income housing requirements over a 15-year compliance period for building owners to claim LIHTCs over a 10-year credit period. Before retiring in January 2021, Senator Michael Enzi, Chairman of the U.S. Senate Committee on the Budget, requested information about this program as part of the committee's evaluation of the economy, efficiency, and effectiveness of Federal housing assistance programs.

The Joint Committee on Taxation estimated that the tax expenditures for the LIHTC were approximately \$7.1 billion for Fiscal Year (FY) 2014 and will increase to \$11.6 billion for FY 2024.² As a comparison, FY 2024 tax expenditure estimates are \$74.1 billion for the Earned Income Tax Credit, \$19.2 billion for the research credit, \$6.0 billion for the energy credit, and \$0.6 billion for the plug-in electric vehicle credit.

63% expected increase in LIHTC tax expenditures from FY 2014 to FY 2024



The specific requirements for the LIHTC program are primarily governed by Internal Revenue Code (I.R.C.) § 42, which gives program oversight responsibility to the Internal Revenue Service (IRS) and certain administrative responsibilities to housing credit agencies (HCA), sometimes called a housing finance agency.³ There are four primary areas of the LIHTC program: allocation, certification, claiming credits, and monitoring.⁴

Allocation

A calendar year allocation amount is authorized by statute to each HCA within a State, the District of Columbia, and the U.S. possessions of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands (henceforth collectively referred to as States for simplicity). The allocation amount is composed of a population amount and, if applicable, any carryover amount, returned amount, and national pool amount. The population amount is based on the larger of the current statutory rate multiplied by the State's population or a

¹ Pub. L. No. 99-514, 100 Stat. 2085 (codified in scattered sections of 26 U.S.C.).

² The Joint Committee on Taxation defines tax expenditures as revenue losses to the Federal Government attributed to special tax provisions. For the FY 2014 estimate, see JCX-97-14, *Estimates of Federal Tax Expenditures for Fiscal Years 2014-2018*, August 5, 2014, based on Federal tax law enacted through June 30, 2014. For the FY 2024 estimate, see JCX-23-20, *Estimates of Federal Tax Expenditures for Fiscal Years 2020-2024*, November 5, 2020, based on Federal tax law enacted through September 30, 2020.

³ In response to the Coronavirus Disease 2019 pandemic, the IRS issued Notice 2020-53 on July 1, 2020, to provide temporary relief from certain requirements under I.R.C. § 42. On February 8, 2021, the IRS issued Notice 2021-12 to extend the temporary relief and to provide temporary relief from additional I.R.C. § 42 requirements.

⁴ See Appendix II for a general illustration of the LIHTC program.

statutory minimum amount with an annual cost-of-living adjustment.⁵ The HCA has two years to use the allocation amount; any unused amount is assigned to a national pool that the IRS redistributes to the HCAs requesting an additional allocation.

Each HCA is required by statute to develop a qualified allocation plan approved by the State's governmental unit through a public process that sets out the State's priorities and selection criteria for awarding the LIHTCs. The HCAs evaluate proposals from building owners to determine which should receive an award, although the award is not finalized until the building is placed in service. Because a building could require more time beyond the end of the calendar year allocation to be placed in service, a building owner can receive a carryover allocation from the HCA as long as development of the building meets specific deadlines. The HCAs use Schedule A (Form 8610, *Annual Low-Income Housing Credit Agencies Report*), *Carryover Allocation of Low-Income Housing Credit*, to record the carryover allocation. If the building is not placed in service in the award calendar year or after a carryover allocation, the HCA award is revoked and the amount returned by the owner is available for reallocation to other qualified projects. After a qualified building is placed in service, the HCA completes Part I of Form 8609, *Low-Income Housing Credit Allocation and Certification*, to finalize the award by identifying the HCA, building, building owner, and other LIHTC information required by the IRS. The original Form 8609 completed by the HCA is sent to the building owner as authorization for receiving the LIHTCs.

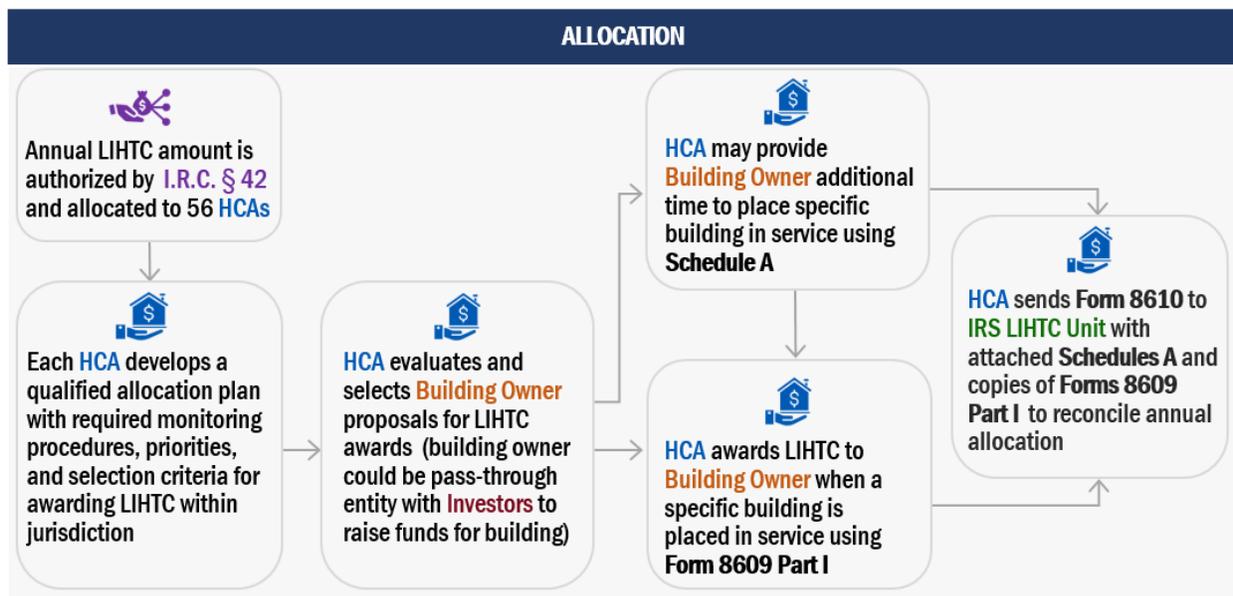
The HCAs report calendar year activity to the IRS by submitting Form 8610.⁶ Copies of Forms 8609 and Schedules A completed by the HCA for the calendar year should be attached to Form 8610. The HCA conducts a reconciliation of the attachments by completing Part I of Form 8610 and a reconciliation of the calendar year allocation (authorized and award amounts) by completing Part II of Form 8610. The HCAs send Form 8610 with attachments to the IRS LIHTC Unit located at the IRS campus in Philadelphia, Pennsylvania.⁷ Figure 1 illustrates the general allocation process of the program.

⁵ There is an additional statutory 1.125 increase to the population amount for Calendar Years (CY) 2018 through 2021. The IRS issues an annual revenue procedure for the population rate and minimum amount. See Revenue Procedure 2019-44 as an example for the CY 2020 rate of \$2.8125 and minimum amount of \$3,217,500. In addition, the IRS issues an annual notice for State populations. See Notice 2020-10 as an example for CY 2020 State populations.

⁶ Form 8610 is due by the end of February after the applicable calendar year. The \$100 information return penalty under I.R.C. § 6652(j) applies to any failure to file the form when due.

⁷ See Appendix III for images of forms sent to the LIHTC Unit by the HCAs and building owners.

Figure 1: Overview of the LIHTC Allocation Process



Source: Treasury Inspector General for Tax Administration's (TIGTA) analysis of the LIHTC program.

Certification

Both the HCAs and building owners are required to submit certifications to the IRS. The HCAs submit an annual certification of meeting the low-income housing requirements by completing Part III of Form 8610 that is sent to the LIHTC Unit.⁸ Each HCA certifies that its qualified allocation plan has the required compliance monitoring procedures and complies with notification of noncompliance responsibilities. Prior to Calendar Year (CY) 2020, the HCAs certified the number of buildings subject to monitoring that were within their jurisdiction and the number of buildings monitored within the last three years. However, IRS officials stated these two certification items were removed from Form 8610 due to HCA confusion with reporting and replaced by an LIHTC analyst review.

Building owners report the first-year and annual certifications to the IRS for each building authorized to receive the LIHTCs. The building owner's first-year certification is sent to the LIHTC Unit after completing Part II of Form 8609 provided by the authorizing HCA.⁹ Building owners certify the first year of the credit period, the building's placed-in-service date, the qualified building cost basis, and make irrevocable elections, including if the credit period is to begin in the first year after the building is placed in service and the minimum set-aside requirement (rent restriction and tenant income limits) for low-income housing. In addition, for each tax year of the 15-year compliance period, building owners are required to submit Form 8609-A, *Annual Statement for Low-Income Housing Credit*, to the IRS with their income

⁸ As mentioned in the previous allocation section, the HCAs complete Parts I and II of Form 8610 for reconciliation of annual allocation activity.

⁹ As mentioned in the previous allocation section, the HCAs complete Part I of Form 8609 and send originals to building owners as authorization for receiving the LIHTCs with copies sent to the IRS attached to Form 8610. After building owners complete Part II, Form 8609 is due to the IRS LIHTC Unit no later than the due date of, but not with, the building owner's first income tax return or pass-through return claiming the credit for the first tax year.

tax return or pass-through return when claiming credits.¹⁰ Building owners complete Part I of Form 8609-A to identify the building-authorized LIHTCs, if the building basis changed, and certify the building still qualifies as low-income housing for the tax year.

On October 30, 2020, the IRS published proposed regulations for changes to the average income test, which is one of the first-year irrevocable elections to determine if a building is meeting low-income housing occupancy requirements and therefore still eligible for the LIHTCs.¹¹ Under the average income test, the building will meet the minimum set-aside requirement if 40 percent or more of residential units are both rent-restricted and occupied by individuals whose income does not exceed the income limit designated for the unit. The average of the income limits for individuals occupying the low-income unit cannot exceed 60 percent of the area median gross income. The proposed regulations would allow for mitigation of noncompliance with the 60 percent income limitation. Some industry representatives suggested that the uncertainty brought on by revisiting the income limitation may reduce investor interest in the LIHTC program. IRS officials stated that regulations are being finalized while considering public comment letters and testimony presented at a public hearing on March 24, 2021. Figure 2 illustrates the general certification process of the program.

Figure 2: Overview of the LIHTC Certification Process



Source: TIGTA's analysis of the LIHTC program.

Claiming credits

As mentioned in the certification section, building owners report annual building compliance on Part I of Form 8609-A for the 15-year compliance period. However, the LIHTC building amount for the tax year, as calculated on Part II of Form 8609-A, is claimed over a 10-year period, starting in the tax year the building is placed in service or in the following tax year, if the building owner makes an irrevocable election on Form 8609. If the LIHTC was authorized for a building owner that is an individual or corporation, Form 8609-A is attached to an income tax return (e.g., Form 1040, *U.S. Individual Income Tax Return*; Form 1040-NR, *U.S. Nonresident Alien Income Tax Return*; Form 1120, *U.S. Corporation Income Tax Return*, or Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*). If the LIHTC was authorized for a pass-through building owner (e.g., investors organized in an estate/trust, partnership, or S corporation), Form 8609-A is attached to a pass-through return (e.g., Form 1041, *U.S. Income Tax Return for Estates and Trusts*; Form 1065, *U.S. Return of Partnership Income*; or Form 1120-S, *U.S. Income Tax Return for an S Corporation*). In general, pass-through entities do not have income tax

¹⁰ See next section for the claiming credits process and Appendix IV for images of forms and schedules used to claim the LIHTC by taxpayers or pass-through entities.

¹¹ 85 Fed. Reg. 211 (Oct. 30, 2020).

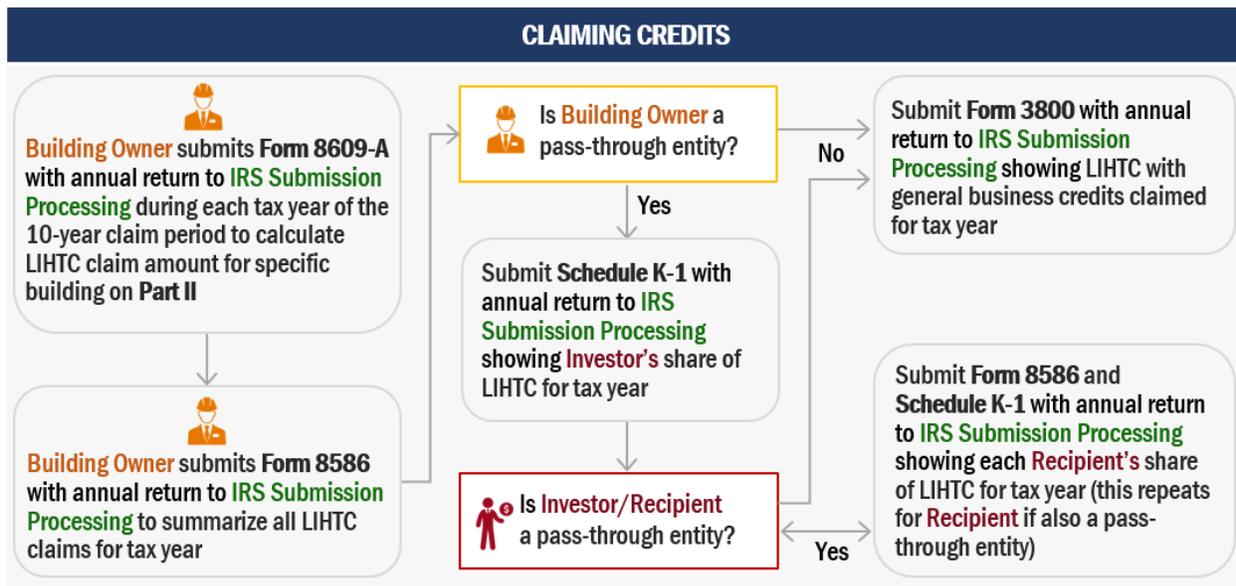
liabilities and use Schedules K-1 to distribute income, deductions, credits, and other information to recipients (*e.g.*, beneficiaries, partners, shareholders, or another pass-through entity) that enter the information on their income tax returns or pass-through returns.¹²

The LIHTC amount for a building from Form 8609-A, Part II, is then entered by the building owner on Form 8586, *Low-Income Housing Credit*, and, if applicable, combined with LIHTC amounts from other buildings. If the building was placed in service before CY 2008 (pre-2008), the amount is entered on Form 8586, Line 3; otherwise, the post-2007 building amount is entered on Form 8586, Line 10. This distinction is because post-2007 LIHTC amounts are not limited by the alternative minimum tax rules. Pass-through building owners distribute the applicable Form 8586 LIHTC amounts on Schedule K-1 information returns issued to recipients that report pre-2008 LIHTCs on Line 4 and post-2007 LIHTCs on Line 11 on their Form 8586. If the pass-through recipient is also a pass-through entity, Schedules K-1 with distributed LIHTC amounts are issued to their recipients and the process repeats until the recipient is no longer a pass-through entity.

All taxpayers (*i.e.*, building owners and recipients that calculate an income tax liability) report the applicable Form 8586 amounts on Form 3800, *General Business Credit*. Form 3800 is attached to a taxpayer's income tax return for claiming various business-related credits, including the LIHTC. One Form 3800 is submitted with a single Part I to summarize credit amounts not allowed against tentative minimum tax and a single Part II to determine credit application against current tax year income tax liability, but could have multiple Parts III to list the various credits being claimed. A separate Part III is required to designate credits received from passive activity, non-passive activity, carryforwards, or carrybacks. In addition, if a specific credit is received from one or more pass-through entities, each pass-through entity's Employer Identification Number (EIN) is required on a separate Part III, column (b), with the applicable pass-through amount. Further, a consolidated Part III is needed when more than one Part III is completed for passive or non-passive activity. Specifically for the LIHTC, Part III has two possible lines depending when a building was placed in service: the LIHTC amount is entered on Part III, column (c), Line 1d for a pre-2008 building or Line 4d for a post-2007 building. Figure 3 illustrates the general claiming credits process of the program.

¹² The Schedule K-1 series report a beneficiary's, partner's, or shareholder's share of income, deductions, credits, *etc.* A trust or decedent's estate is a pass-through entity that could have an income tax liability calculated using the LIHTC and then will distribute any remaining LIHTC to beneficiaries.

Figure 3: Overview of the LIHTC Claiming Credit Process



Source: TIGTA's analysis of the LIHTC program.

Monitoring

After authorizing the LIHTCs to building owners, the HCAs have a statutory requirement to monitor buildings during the 15-year compliance period and notify the IRS of any building disposition (e.g., sale, foreclosure, destruction) or building noncompliance with LIHTC provisions (e.g., failing to meet minimum set-aside election). This also includes reviewing habitability standards through on-site inspections by the end of the second year following the placed-in-service date of the building and at least once every three years thereafter during the 15-year compliance period. Noncompliance with LIHTC requirements may result in the IRS denying taxpayer LIHTC claims in the current tax year or recapturing (taking back) the LIHTCs claimed in prior tax years. Taxpayers can also self-report recaptures by attaching Form 8611, *Recapture of Low-Income Housing Credit*, to their income tax return. The HCAs use Form 8823, *Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition*, to notify the IRS of any building disposition or noncompliance with LIHTC provisions, with explanation required for some reasons. Form 8823 must be sent to the LIHTC Unit no later than 45 days after either the building's disposal or the end of the allotted time for the building owner to correct the noncompliant condition.

The IRS's oversight of the LIHTC program includes providing internal and external guidance, reviewing annual allocation reconciliations and certifications, and monitoring HCA and taxpayer compliance through operation reviews and tax return audits. The IRS Office of Chief Counsel, with assistance from the U.S. Department of the Treasury Office of Tax Policy, develops and publishes regulations and guidance based on requirements in I.R.C. § 42. An Examination analyst within the Small Business/Self-Employed (SB/SE) Division develops an annual examination plan, primarily using Forms 8823 submitted by the HCAs, to select tax returns claiming the LIHTC for Examination employees to audit. An LIHTC analyst within the SB/SE Division provides technical assistance to the HCAs, the LIHTC Unit, and Examination employees. In addition, the LIHTC analyst updates internal and external written guidance in coordination with the IRS Office of Chief Counsel, provides outreach to the HCAs and stakeholders about

LIHTC compliance issues and best practices at industry conferences, addresses questions submitted to an LIHTC e-mail box, and conducts reviews of HCA operations. Figure 4 illustrates the general monitoring process of the program.

Figure 4: Overview of the LIHTC Monitoring Process



Source: TIGTA's analysis of the LIHTC program.

Results of Review

We reviewed the IRS's processes and procedures to ensure HCA, building owner, and taxpayer compliance with LIHTC provisions and found significant issues with data reliability that increase the risk of undetected errors and noncompliance. We also identified potentially large dollar amounts of noncompliance by building owners and taxpayers based on information contained on key forms and schedules. However, current SB/SE Division examination plans include only a small number of income tax returns claiming the LIHTC each year. In addition, the no-change rates for most of these examinations are significantly higher than the average no-change rates for examinations of similar taxpayers.

The Reliability of the Low-Income Housing Tax Credit Database Could Be Improved

In response to a 2015 Government Accountability Office recommendation, the LIHTC Unit started transcription and review of submitted HCA and building owner forms using a new database in September 2017, part of the SB/SE Division's Compliance Data Environment system, which was intended to improve security, data entry checks, and reconciliation checks.¹³ Tax Year (TY) 2017 was the first complete tax year using the new database, with some information transferred from the previous database. We obtained data extracts as of March 10, 2020, for the HCA- and building owner-submitted LIHTC forms and schedules recorded in this database.

Our review of the LIHTC database found numerous errors and questionable entries for HCA and building owner information that indicate a lack of effective system checks to ensure that the IRS has sufficiently complete and accurate information for oversight of HCA activity. We also found reconciliation discrepancies and missing first-year elections that increase the risk of undetected errors or noncompliance, as well as nonprofit set-asides below the minimum requirement. Further, we identified certification discrepancies and inconsistent HCA reporting of building

¹³ Government Accountability Office, GAO-15-330, *Low-Income Housing Tax Credit: Joint IRS-HUD Administration Could Help Address Weaknesses in Oversight* (July 15, 2015).

noncompliance and dispositions. Lastly, we found questionable data related to LIHTC claims with dollar amounts in the hundreds of millions.

Unreliable controls and processing delays for HCA forms resulted in undetected errors and noncompliance

Our review of HCA forms processed by the LIHTC Unit found unreliable or missing data for several forms, as well as other issues. These increase the risk of the IRS failing to detect errors and identify noncompliance.

Recording forms submitted by the HCAs

Although HCA forms received and processed by the LIHTC Unit are information returns, it does not use the method employed by IRS Submission Processing to receive, control, check, transcribe, and store other information returns. IRS officials stated this was due to the low volume of LIHTC forms, but they are exploring the possibility of electronic submission of forms by the HCAs to the LIHTC Unit.

Our review of HCA-submitted forms and schedules found data errors, unreliable inventory control, and processing delays that increase the risk for lost forms, untimely action, and undetected errors or noncompliance that may affect the IRS's ability to provide adequate oversight of the LIHTC program. In addition, trending of errors is not conducted to identify areas requiring corrective action, employee training, or HCA outreach. Figure 5 summarizes the HCA-submitted LIHTC forms and schedules recorded in our March 10, 2020, database extract.

Figure 5: Number of HCA Forms and Schedules Recorded in the LIHTC Database as of March 10, 2020

	Count
Forms 8610	303
Forms 8609 Part I attached to Forms 8610	44,831
Schedules A attached to Forms 8610	2,496
Forms 8823	57,719

Source: TIGTA data extracts from the LIHTC database.

Our analysis of forms submitted by the HCAs identified questionable database entries that could be HCA submission errors or LIHTC Unit transcription errors, which impair the IRS's ability to provide adequate oversight of the LIHTC program. Although the LIHTC database includes some system checks for data accuracy, it does not consistently check for missing entries or logical errors, such as received dates, which prevents the LIHTC Unit from determining if the HCA submitted the form by the required due date or incorrectly used future dates. Examples of questionable database entries found in our review include the following:

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

- Form 8610: 184 forms did not have a received date. In addition, [REDACTED] which is not valid because this type of allocation was not applicable that tax year for any HCA.¹⁴
- Form 8609 Part I, attached to Form 8610: 13,498 forms did not have received dates and five had future received dates. In addition, seven forms had system-entered dates before received dates, 33 forms did not have the building's ZIP Code, and 28 forms did not have a placed-in-service date.
- Schedule A attached to Form 8610: 39 schedules did not have a received date and five had future received dates. In addition, six schedules had system-entered dates before received dates, nine schedules had future carryover allocation dates, and six schedules had a carryover allocation amount of \$0.
- Form 8823: 2,337 forms did not have received dates. In addition, 238 forms had system-entered dates before received dates, 649 forms had received dates before building noncompliance date or received dates before building corrected dates, and 160 forms did not have building disposition or building noncompliance dates.

In addition, our analysis of LIHTC Unit inventory reports for HCA-submitted forms and schedules identified unreliable inventory control and processing delays, which impairs the IRS's ability to provide adequate oversight of the LIHTC program. Observations from our review of the inventory reports are:

- The LIHTC Unit conducted a physical inventory count of forms and schedules waiting to be processed at the beginning of FYs 2019, 2020, and 2021 that found significant discrepancies with the prior fiscal year ending LIHTC Unit inventory reports. For example, the FY 2020 LIHTC Unit's ending inventory report showed 7,099 Forms 8609 Part I waiting to be processed, but the FY 2021 beginning inventory after physical count found 214 waiting to be processed. This indicates the LIHTC Unit inventory report is not reasonably reflecting casework, which increases the risk for lost forms and schedules.
- The LIHTC Unit inventory report showed a processing backlog at the end of FY 2019 for HCA-submitted Forms 8609 (2,671 waiting to be processed).¹⁵ Backlogs increased for all HCA-submitted forms and schedules by the end of FY 2020, including Form 8823 (9,234 waiting to be processed), which were processed with help from outside the LIHTC Unit. We understand that processing was affected by changing IRS working conditions due to the Coronavirus Disease 2019 pandemic, but the FY 2020 inventory report showed a significant decrease in receipts of forms from the HCAs and the backlogs continued. As of May 13, 2021, only Form 8823 no longer had a processing backlog.
- LIHTC Unit inventory reports do not provide aging information to assist with identification of processing delays or potentially lost forms. For example, if forms are processed using the first-in/first-out methodology, the age of the oldest unprocessed

¹⁴ [REDACTED]

¹⁵ TIGTA classified a backlog as either receipts being greater than closures for a year (*i.e.*, increased inventory to be processed) or ending inventory being a large percentage of closures for the year (*i.e.*, a year of closures with few or no receipts may not bring inventory to zero within a year).

receipt could indicate that the large inventory level is due to an unusual event like a surge in recent receipts, but could also signal an issue involving processing delays or lost work that requires immediate action.

Timeliness for HCA reporting

We identified eight HCAs that were not penalized for late filing of Forms 8610. The \$100 information return penalty under I.R.C. § 6652(j) applies to any failure to file an information return form when due. However, reasonable cause can be used to abate the penalty. Form 8610 is due from the HCAs by the end of February after the applicable calendar year. Assessing such penalties would alert HCA decision makers of a late-filing problem. However, not enforcing reporting requirements erodes compliance, decreases public confidence in a fair tax system, and affects the IRS's ability to provide adequate oversight of the LIHTC program. IRS officials stated [REDACTED] The IRS's justification was that it was [REDACTED]

Reconciliation of HCA allocation

We identified various reconciliation discrepancies in the LIHTC database, such as not including attachments and not always updating for corrections, which increases the risk of undetected errors or noncompliance. For example, the number of attachments shown on Form 8610 do not always match attachments entered into the system. Forms 8610 for TYs 2014 to 2018 indicated that 71,373 Forms 8609, Part I, were attached, but only 43,357 were entered into the system. In addition, 5,432 Schedules A were indicated as attached to the Forms 8610, but only 2,244 were entered into the system. Most discrepancies involved tax years before the current database system was established, but 14 Forms 8610 for TY 2017 had discrepancies and 11 Forms 8610 for TY 2018 had discrepancies, with some having too few attachments entered into system and others having too many attachments. IRS officials stated that the effort to correct form count discrepancies is not justified by the benefit when dollars reconcile. We disagree because if these attachments are not properly entered, the Forms 8609 and Schedules A cannot be reconciled to the Forms 8610. Although Forms 8610 with discrepancies can be identified and resolutions noted by the LIHTC Unit, we found the database is not always adjusted to reflect the resolutions.

The Form 8610 reconciliation also checks compliance with the nonprofit set-aside requirement. The HCAs are required by statute to award at least 10 percent of their calendar year allocation to buildings owned by qualified nonprofit organizations (10 percent minimum nonprofit set-aside). We identified seven HCAs that submitted 14 Forms 8610 with nonprofit set-aside below the 10 percent minimum requirement. Not enforcing requirements erodes compliance and decreases public confidence in the tax system. IRS officials stated the LIHTC analyst identifies and contacts the HCA by letter asking for an explanation for not meeting the nonprofit set-aside. The IRS found most involved timing issues of credits returned late in the calendar year and the HCA did not have time to reallocate, and the HCA made a nonprofit set-aside correction in the subsequent calendar year.

HCA certification

The HCAs annually certify compliance with low-income housing requirements by completing questions on Part III of the Form 8610 submitted to the LIHTC Unit. We reviewed Forms 8610

entered into the current database and identified HCAs that either self-reported noncompliance or did not provide responses for FYs 2014 through 2018. The following are our observations:

- [REDACTED] qualified allocation plan includes required compliance monitoring procedures including monitoring for habitability standards through regular site visits.
- Three HCAs replied “No” and three other HCAs did not reply if they complied with compliance monitoring procedures in their qualified allocation plan.
- Five HCAs replied “No” and five other HCAs did not reply if they complied with the requirements of their monitoring procedures to fulfill their notification of noncompliance responsibilities.

Although we recognize that the LIHTC Unit could have made transcription errors in the database, the HCAs self-reporting noncompliance or not certifying compliance with low-income housing requirements erodes compliance, decreases public confidence in the tax system, and increases risk for undetected errors or noncompliance, which affects the IRS’s ability to provide adequate oversight of the LIHTC program. IRS officials stated that HCA self-reporting of noncompliance or missing responses for certification were mostly before TY 2018, when the current database was fully implemented and the staff was trained. They also stated that the HCAs are identified and contacted by the LIHTC analyst when self-reporting noncompliance.

HCA reporting of building disposition and noncompliance

Per our data extract, there were 746 Forms 8823 received for CYs 2015 through March 10, 2020, with received dates and building disposed dates. These include 730 original Forms 8823 and 16 amended Forms 8823. We identified 598 of 730 Forms 8823 originally submitted by the HCAs that reported a building disposition (*e.g.*, sale, foreclosure, destruction) were not received by the LIHTC Unit within the required 45 days after the event. All 16 of the amended Forms 8823 were received between 701 to 1,645 days after building disposition. The original Forms 8823 were not in the LIHTC database to determine when the Form 8823 was first received.

We also reviewed Forms 8823 submitted by the HCAs to report building noncompliance, which are required to be submitted within 45 days after the time allowed by the HCA for building owners to correct noncompliance. However, the timeliness of these submissions cannot be determined because Form 8823 only requires the noncompliance date and correction date, if applicable, and not the date established by the HCA for the correction to be completed. There were 6,983 original Forms 8823 and 205 amended Forms 8823 with received and building noncompliance dates but no building correction date. Using the noncompliance date when no correction date was provided, we identified 2,901 of 6,983 original and 100 of 205 amended Forms 8823 that were received over one year from the noncompliance date. For those forms that provided the correction date, we identified 1,851 of 46,355 original and 37 of 207 amended Forms 8823 that were received over one year from the correction date.

A review of the HCAs submitting Form 8823 found only 16 of 56 HCAs reported any building dispositions during TYs 2014 through 2018.¹⁶ In addition, Form 8823 reporting for building

¹⁶ There are 56 HCAs: one for each State, the District of Columbia, and the U.S. possessions of Puerto Rico, Virgin Islands, Guam, American Samoa, and Northern Mariana Islands.

noncompliance varied greatly between the HCAs. For example, three HCAs have never reported building noncompliance, and six HCAs have years-long gaps between reports of building noncompliance.

Untimely and inconsistent HCA reporting erodes compliance, decreases public confidence in the tax system, and increases risk for undetected errors, which affects the IRS's ability to provide adequate oversight of the LIHTC program. IRS officials stated that the HCAs do not report building dispositions timely because the HCAs are reliant upon building owners to report a disposition or the HCAs are notified of a disposition when scheduling a building compliance visit. In addition, the IRS has no enforcement power against the HCAs for submitting untimely Forms 8823 and can only encourage timely reporting. The IRS believes that the administrative burden on the HCAs and the IRS to monitor timeliness is prohibitive. IRS officials stated that all building dispositions and noncompliance should be consistently reported on Form 8823. However, many HCAs are understaffed and report only the egregious dispositions and noncompliance. The IRS can encourage reporting, but there are no consequences if the HCAs do not report.

Unreliable and missing building owner data resulted in undetected errors and noncompliance

Our review of the LIHTC database found unreliable or missing data for several forms submitted by building owners, as well as other issues. These increase the risk of the IRS failing to detect errors and identify noncompliance. Our review also found that the questionable data related to LIHTC claims with dollar amounts in the hundreds of millions.

Building owner-submitted Form 8609 database accuracy

As previously discussed, the HCAs and building owners use Form 8609 to report LIHTC allocations to the IRS. When a qualified building is placed in service, the HCA completes Part I of Form 8609 with agency, building owner, and building information that includes addresses, names, Taxpayer Identification Numbers (TIN), Building Identification Number (BIN), allocation date, maximum allowable credit amount, maximum allowable credit percentage, maximum qualified basis, placed-in-service date, and allocation type with/without Federal subsidy (*e.g.*, newly constructed, existing building, rehabilitation expenditure). A paper copy of Form 8609, with Part I completed by the HCA, is sent to the LIHTC Unit as an attachment to Form 8610, which is due at the end of February following the allocation calendar year. The IRS can assess a penalty for not filing these forms, which are considered information returns. Once completed by the HCA, the original paper Form 8609, Part I, is sent to the building owner.

The building owner completes Form 8609, Part II, for the first-year certification to provide eligible building basis, qualified building basis, and various irrevocable elections (*e.g.*, beginning of the credit period, minimum set-aside requirement). After completion, the original paper Form 8609 is sent to the LIHTC Unit. Form 8609 is a one-time submission due no later than the due date, including extensions, of the building owner's first tax return claiming the LIHTC. There is no statutory penalty for the building owner failing to file Form 8609, and the form is not required to be attached to the building owner's tax return. The HCA may require the building owner to provide a copy of the completed Form 8609 to the HCA.

The LIHTC Unit transcribes the HCA and building owner-submitted Forms 8609 into separate database files. The accuracy of the current LIHTC database, discussed in the previous section on

HCA compliance, also applies to building owner-submitted Forms 8609. We obtained data extracts of 44,831 HCA- and 68,178 building owner-submitted Forms 8609 entered into the new database system as of March 10, 2020. Although there are some system checks in the database file for the Forms 8609, Part II, submitted by building owners, questionable data entries were identified and could be building owner submission errors or LIHTC Unit transcription errors. Some examples of the questionable entries on the 68,178 building owner-submitted Forms 8609 include:

- 31,342 records without a received date (2,023 entered after the current system was in place), which prevents the IRS from determining if the building owner timely submitted required information. [REDACTED]
- 2,307 records without a street, city, State, and ZIP Code for building address (Line A), which limits the IRS's ability to locate the building and verify its existence. [REDACTED]
- 3,384 records received between January 1, 2018, and March 10, 2020 (current system in place), without a name and date for HCA signature, which raises question of whether the HCA made allocations. [REDACTED]
- 4,175 records without a building owner name and six with "NO NAME" for building owner name (Line C), which raises questions about the identity of the building owner. [REDACTED]
- 2,617 records received between January 1, 2018, and March 10, 2020 (current system in place), without a street, city, State, and ZIP Code for building owner address (Line C) that limits the ability to locate the building owner. [REDACTED]
- 1,287 records have building owner signature dates after the form received date, including future dates (*e.g.*, February 21, 2047, May 9, 2061). [REDACTED]

While reviewing the Form 8609, Part II, data for 68,178 forms submitted by building owners, we also noted the following:

- 12,510 records had a signature TIN in the building owner's signature section that was different than the building owner's TIN (already in Line C) and 55,668 records had an building owner's signature TIN the same as the building owner's TIN. Form 8609 instructions do not indicate if signature TIN should be the person signing the form or the building owner's TIN.
- No building owner-submitted Forms 8609 included the tax year. When Form 8609, Part I, is submitted by the HCA, the system requires entry of tax year associated with the Form 8610, but [REDACTED]
- 28,462 records without an entry for "F8609 Match Indicator" (system field indicating that matching HCA-submitted Form 8609 is present) for forms entered in the previous database (entered into system between April 16, 2014, and August 8, 2017).

- 12,493 records with an entry for “F8609 Match Indicator” showing no HCA-submitted Form 8609 in the system.

LIHTC Unit Form 8609 inventory management

Similar to the issues discussed in the earlier section on HCA compliance, we found inventory weaknesses for Forms 8609 submitted by building owners. The LIHTC Unit’s physical inventory counts showed significant discrepancies between the ending count from the previous fiscal year’s inventory report and the beginning count for the next fiscal year. There was also a significant decrease in recorded receipts and closures in FY 2020, as well as a backlog for transcribing forms into the system.¹⁷ The LIHTC Unit’s inventory report does not provide aging information to assist with identification of processing delays or potential lost forms. Unreliable inventory reports and processing delays, including recording the receipt of forms, increases the risk for lost forms and untimely action to correct errors or address noncompliance that may affect the IRS’s ability to provide adequate oversight of the LIHTC program.

First-year elections not always made on building owner-submitted Forms 8609

Building owners are required to make certain first-year irrevocable elections for treatment of the LIHTC on Form 8609, Part II. In addition, a “no” or “not applicable” response is not an option for some elections. Unclear elections could complicate future compliance action that may affect the IRS’s ability to provide adequate oversight of the LIHTC program.

- Election to treat building as multiple building project (Line 8b): 59,867 records checked “yes,” 4,217 records checked “no,” and 4,094 records with nothing checked.
- If box 6a or box 6d is checked for a newly constructed building, an election should be made to reduce eligible basis (Line 9a): 177 records checked “yes,” 15,275 records checked “no,” 20,239 records did not answer, and 11,837 records answered when not required.
- Election to reduce eligible basis by disproportionate cost (Line 9b): 1,016 records checked “yes,” 6,271 records checked “no,” and 60,891 records with nothing checked.
- Election to begin credit period the year after placed-in-service date (Line 10a): 16,172 records checked “yes,” 30,954 records checked “no,” and 21,052 records with nothing checked.
- Election not to treat large partnership as taxpayer (Line 10b): 872 records checked “yes” and 67,306 records with nothing checked, possibly due to “no” not being an option on the form.
- Election for minimum set-aside requirement (Line 10c): 396 records checked “20-50,” 66,456 records checked “40-60,” 888 records checked “25-60,” 201 records checked “Average Income,” and 237 records with nothing checked.

¹⁷ TIGTA classified a backlog as either receipts being greater than closures for a year (*i.e.*, increased inventory to be processed) or ending inventory being a large percentage of closures for the year (*i.e.*, a year of closures with few or no receipts may not bring inventory to zero within year).

- Election for deep-rent-skewed project (Line 10d): 81 records checked “15-40” and 68,097 records with nothing checked, possibly due to “no” not being an option on the form.

Errors in Form 8609 data are not identified, analyzed, or corrected

The LIHTC Unit manager evaluates work for individual employee performance reviews, but an overall review of the number and types of errors made while processing forms is not conducted. In addition, the number and types of errors made by building owners submitting Forms 8609 are not identified, corrected, or summarized for analysis. Trending common errors can be used to improve employee training as well as identify areas for building owner outreach to minimize unreliable data, which could reduce IRS resources used to make corrections, increase timeliness of reliable data entry into the system, and improve the IRS’s ability to provide adequate oversight of the LIHTC program.

LIHTC forms, including building owner-submitted Form 8609, Part II, are tax information returns used for oversight of program requirements and enforcement of tax compliance. However, the LIHTC forms are not received, controlled, checked for errors, transcribed, and stored using the methods employed by Submission Processing for other tax information returns.

Potential Form 8609-A compliance issues

Form 8609-A is submitted with the building owner’s tax return to report annual compliance with LIHTC provisions (Part I) and calculate the specific tax year LIHTC allocation amount for a building (Part II). Although the LIHTC is claimed over a 10-year period, Form 8609-A is required to be filed for the 15-year compliance period, with just Part I completed for compliance information for the final five years. If applicable, each Form 8609-A amount is combined with the LIHTCs from other building allocations on Form 8586. If the building owner is also the taxpayer claiming the LIHTC (*i.e.*, corporation, individual), Form 8586 information is entered on Form 3800 to claim the credit. If the building owner is a pass-through entity (*i.e.*, partnership, S-corporation, estate/trust), Form 8586 information is distributed using Schedule K-1 for the recipients (*i.e.*, partner, shareholder, beneficiary, other pass-through entity) to record the LIHTC and include on their tax return, if applicable.

Ultimately, a valid LIHTC claim amount should trace back to a building owner-submitted Form 8609-A that is supported by an HCA/building owner-submitted Form 8609. We obtained extracts of tax data for electronically filed (e-filed) income tax returns with Forms 8609-A attached for TYs 2014 through 2019 (as of May 29, 2020, for business taxpayers and July 8, 2020, for individual taxpayers), as shown in Figure 6.

Figure 6: Total Number and Dollar Amount of Processed Forms 8609-A for TYs 2014 Through 2019

TY	Business Taxpayers		Individual Taxpayers	
	Count	LIHTC Amount	Count	LIHTC Amount
2014	218,047	\$7,946,036,070	60	\$160,365
2015	224,881	\$8,423,573,118	50	\$917,759
2016	232,432	\$8,852,322,604	73	\$222,158
2017	232,711	\$9,196,816,042	46	\$53,839
2018	229,437	\$9,264,513,406	45	\$589,710
2019	102,555	\$4,058,128,349	20	\$30,164
TOTALS	1,240,063	\$47,741,389,589	294	\$1,973,995

Source: TIGTA analysis of IRS return processing data. Not all Forms 8609-A claimed an LIHTC amount; see Figure 7 for forms claiming a positive amount.

We compared Forms 8609 (awarded credits submitted to LIHTC Unit) with Forms 8609-A (claimed credits submitted on building owner's return) to identify 4,283 Forms 8609 submitted for TYs 2014 through 2018 that did not have a corresponding Form 8609-A. In some instances, there was a TIN or BIN mismatch between Form 8609 and Form 8609-A, but in other instances, there was no Form 8609-A attached to the building owner's return. We would expect building owners that were awarded the LIHTCs to claim the credits, so if there was no corresponding Form 8609-A, the building could have been sold and the new building owner has not been identified.

Our review of the building owner-submitted Forms 8609-A identified the following potential compliance items for business or individual tax returns submitted for TYs 2014 to 2019. Some taxpayers could be included in more than one of the following issue groups.

- For 143,128 business taxpayer and 187 individual taxpayer Forms 8609-A, the taxpayers entered unlikely BINs on Line A (e.g., missing State code, missing numeric digits, listed as "APPLIED," "DIDNOTP," "HOME," or "N/A") that would contradict the entry on Line C that the taxpayer has original/copy of Form 8609, which shows the HCA assigned BIN.
- For 4,487 business taxpayer Forms 8609-A, the taxpayers marked on Line D that the building did not qualify as a part of a qualified low-income housing project and meet the requirements of I.R.C. § 42 as of the end of the tax year, yet claimed \$287,014,285 of the LIHTCs. Per instructions for Form 8609-A, if the building does not qualify for the LIHTC, the taxpayer should see Form 8611 for possible LIHTC recapture.
- For 72 business taxpayer Forms 8609-A, the taxpayers claimed a negative LIHTC amount, for a total negative LIHTC amount of \$473,660. The taxpayers may be indicating a credit recapture that should be reported using Form 8611.

Of the total Forms 8609-A submitted by building owners shown in Figure 6 (1,240,063 for business taxpayers and 294 for individual taxpayers), Figure 7 shows that 846,432 business taxpayer and 110 individual taxpayer Forms 8609-A claimed a positive LIHTC amount. The difference between the two figures is due to the taxpayer either claiming a negative LIHTC amount, as discussed in the previous bullet, or not claiming any LIHTC (applicable if submitting

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for the last five of the 15-year compliance period). The remaining items in this section discuss only Forms 8609-A that claimed a positive LIHTC amount.

Figure 7: Forms 8609-A With Positive LIHTC Amount Claimed for TYs 2014 Through 2019

TY	Business Taxpayer		Individual Taxpayer	
	Count	LIHTC Amount	Count	LIHTC Amount
2014	158,099	\$7,946,339,292	21	\$160,365
2015	160,124	\$8,423,575,548	14	\$917,759
2016	160,263	\$8,852,458,767	37	\$222,158
2017	156,350	\$9,196,829,167	12	\$53,839
2018	147,502	\$9,264,515,893	20	\$589,710
2019	64,094	\$4,058,144,582	6	\$30,164
TOTALS	846,432	\$47,741,863,249	110	\$1,973,995

Source: TIGTA analysis of IRS return processing data.

Figure 8 shows a total of 40,862 business taxpayer and 33 individual taxpayer Forms 8609-A claiming a positive LIHTC amount have questionable entries on Lines 1, 2, 3, 5, 6, or 15. This raises questions about the accuracy of over \$851 million in claimed LIHTC. Examples of questionable entries include \$0 for Line 1 eligible basis, \$0 for Line 3 qualified basis, missing Line 5 credit percentage, or \$0 for Line 15 building credit.

Figure 8: Forms 8609-A With Questionable Entries for TYs 2014 Through 2019

TY	Business Taxpayer		Individual Taxpayer	
	Count	LIHTC Amount	Count	LIHTC Amount
2014	8,145	\$144,151,675	█	█
2015	7,384	\$142,322,698	█	█
2016	7,518	\$153,654,472	27	\$156,773
2017	7,778	\$174,471,389	0	\$0
2018	7,830	\$183,836,774	0	\$0
2019	2,207	\$52,787,271	█	█
TOTALS	40,862	\$851,224,279	33	\$193,875

Source: TIGTA analysis of IRS return processing data.

Figure 9 shows 13,369 business taxpayer and 51 individual taxpayer Forms 8609-A claiming more than \$989 million in the LIHTCs in TYs 2014 through 2019 did not have a corresponding Form 8609 to support the LIHTC claim. These taxpayers did not provide a BIN or entered a BIN indicating the LIHTCs were awarded in TYs 2014 through 2019 on Form 8609-A. This could be caused by Form 8609 not being submitted/incorrectly submitted (HCA error), Form 8609 not entered/incorrectly entered in the IRS system (LIHTC Unit error), Form 8609-A incorrectly submitted (taxpayer error), or Form 8609-A falsely claiming the LIHTC (taxpayer noncompliance).

Figure 9: Positive LIHTC Claimed on Form 8609-A Without Supporting Form 8609 for TYs 2014 Through 2019

TY	Business Taxpayer		Individual Taxpayer	
	Count	LIHTC Amount	Count	LIHTC Amount
2014	173	\$20,622,610	11	\$32,056
2015	370	\$33,374,498	9	\$869,031
2016	1,234	\$79,221,111	10	\$50,767
2017	2,833	\$175,064,045	9	\$30,147
2018	5,055	\$402,615,874	8	\$113,018
2019	3,704	\$277,304,528	4	\$27,982
TOTALS	13,369	\$988,202,666	51	\$1,123,001

Source: TIGTA analysis of IRS return processing data.

Figure 10 shows a total of 36,367 Forms 8609-A submitted by businesses claiming a positive LIHTC amount with a qualified building basis (Line 3) greater than corresponding HCA Form 8609 maximum qualified basis (Line 3a). This increased \$13.3 billion basis amount on Form 8609-A could cause an inappropriate amount of LIHTC to be claimed above the allocated LIHTC amount on Form 8609. However, we found some differences that could be due to processing errors because digit(s) appeared to be missing from the Form 8609 amount (HCA submission error or LIHTC Unit transcription error) or digit(s) appeared to be added to the Form 8609-A amount (taxpayer error). In addition, we found no Forms 8609-A submitted by individuals that could be matched with a corresponding HCA Form 8609 to make this comparison.

Figure 10: Forms 8609-A Submitted by Businesses With Building Basis Exceeding Amount Shown on Form 8609 for TYs 2014 Through 2019

TY	Count	Qualified Basis Difference
2014	895	\$256,830,740
2015	2,022	\$732,887,697
2016	5,100	\$1,782,222,125
2017	9,166	\$3,410,272,077
2018	12,706	\$4,915,363,978
2019	6,478	\$2,232,838,853
TOTALS	36,367	\$13,330,415,470

Source: TIGTA analysis of IRS return processing data.

In addition, we found 846 Forms 8609-A submitted by businesses that claimed a positive LIHTC amount with credit percentages (Line 5) greater than the corresponding HCA maximum allowable credit percentage on Form 8609 Line 2. The increased percentage on Form 8609-A could cause an inappropriate amount of the LIHTC to be claimed above the LIHTC amount allocated on Form 8609. However, we found some differences could be due to processing

errors because of a zero credit percentage on Form 8609 (HCA submission error or LIHTC Unit transcription error) or greater than 20 percent on Form 8609-A (taxpayer error).¹⁸

Figure 11 shows that we found 4,212 Forms 8609-A submitted by businesses that claimed a positive LIHTC amount with a tax year building credit amount (Line 15) greater than the corresponding HCA Form 8609 maximum allowable credit amount (Line 1b). The approximate \$73.4 million increased amount on Form 8609-A could allow taxpayers to claim an inappropriate amount of the LIHTC above the allocated LIHTC amount on Form 8609. However, we found some differences could be due to processing errors because digit(s) appear to be missing from the Form 8609 amount (HCA submission error or LIHTC Unit transcription error) or digit(s) appear to have been added to the Form 8609-A amount (taxpayer error).

Figure 11: Forms 8609-A Submitted by Businesses With Building Credit Amount Exceeding Amount Shown on Form 8609 for TYs 2014 Through 2019

TY	Count	Building Credit Difference
2014	173	\$3,859,712
2015	378	\$7,476,057
2016	595	\$9,559,546
2017	967	\$16,838,225
2018	1,414	\$24,512,761
2019	685	\$11,131,389
TOTALS	4,212	\$73,377,690

Source: TIGTA analysis of IRS return processing data.

Specific outreach to building owners is not conducted

The IRS does not design specific outreach for building owners because of potential differences due to building locations. Instead, the IRS relies on the HCAs to provide specific guidance to building owners in their qualified allocation plans that could vary to meet location requirements. The IRS does general outreach discussing LIHTC requirements, processes, and procedures including presentations made at industry conferences and through webinars. There are also hyperlinks on IRS.gov that refer to form instructions, technical guidance, and other general outreach items. In addition, building owners can submit questions to an LIHTC e-mail box for clarification of issues, and if necessary, the questions will be discussed with IRS Counsel before answers are provided.

¹⁸ The credit percentage is determined by I.R.C. § 42(b) that considers the type of building and when the building is placed in service. Because it can vary by month, the percentage is published monthly by the IRS in the Internal Revenue Bulletin. This percentage is multiplied by the qualified building basis to determine the LIHTC amount. A zero credit percentage on Form 8609 is a likely error because this would result in a \$0 allocation by the HCA. Typically, the maximum credit percentage is approximately 9 percent. We used 20 percent or more, which is more than twice the maximum expected percentage, to show likely taxpayer errors on Form 8609-A.

The Commissioner, SB/SE Division, should:

Recommendation 1: Ensure that additional system validity checks are implemented to improve the accuracy and reliability of the information in HCA and building owner portions of the LIHTC database.

Management's Response: The IRS agreed with this recommendation. IRS management stated that a system change request was submitted to enhance data input validity checks for Form 8609. The additional validity checks will result in improved accuracy and completeness of the reports used for program monitoring. However, IRS management did not agree to ensure that the additional validity checks for other forms will be implemented due to budget constraints, competing priorities, and resource allocations.

Office of Audit Comment: IRS management did not provide with their response an estimate of the cost of implementing additional validity checks for the other HCA and building owner forms with errors and questionable entries noted in our report. Failure to address the accuracy and reliability of the information in the LIHTC database for the other HCA and building owner forms may affect the IRS's ability to provide adequate oversight of the LIHTC program.

Recommendation 2: Establish an effective quality review system for the processing of LIHTC forms received from the HCAs and building owners to identify areas requiring corrective action, employee training, or outreach.

Management's Response: The IRS agreed with this recommendation. IRS management stated that additional training will be conducted for forms processing. In addition, patterns of submission errors and areas in need of quality improvement will be communicated to the LIHTC analyst.

Office of Audit Comment: TIGTA agrees that training employees and tracking errors are important considerations for improving quality. However, TIGTA believes that the IRS should also establish a formal quality review system for the processing of LIHTC forms received from the HCAs and building owners by the LIHTC Unit. Currently, the only reviews conducted by the LIHTC Unit for these forms are managerial reviews of a portion of their employees' work for evaluation purposes.

Recommendation 3: Establish an examination selection process for business owners submitting questionable Forms 8609-A that do not correspond to Forms 8609.

Management's Response: The IRS agreed with this recommendation. IRS management stated that they will develop a process to compare Forms 8609-A with Forms 8609.

Significant Taxpayer Compliance Issues Should Be Addressed

The IRS examines a small number of income tax returns claiming the LIHTC each year. These examinations are closed with a no-change rate much higher than the overall average for examinations.¹⁹ Our review of e-filed Forms 3800 found approximately 20,200 questionable

¹⁹ A no-change is an audit that was conducted and the examiner closes the audit with no recommended tax change.

LIHTC claims for TYs 2018 and 2019 totaling \$491.5 million for buildings placed in service before CY 2008. These LIHTC claims are questionable because the 10-year credit period has expired. We also found approximately 67,000 e-filed LIHTC claims that lacked support for claimed LIHTC amounts of almost \$15.6 billion.

Recent LIHTC audits have not identified significant noncompliance

The IRS uses a variety of sources to select returns for examination that are likely to include areas of noncompliance and will result in recommended changes to one or more items reported on the return. The SB/SE Division Examination plan calls for approximately 100 tax returns claiming the LIHTC to be selected annually for audit under its Other Priority Programs strategy, which contains specific work streams and important projects that are specifically coded and do not fit into the other strategies. If the taxpayer is outside of the SB/SE Division, a referral is sent to the appropriate business unit (*e.g.*, Large Business and International or Tax Exempt and Government Entities Divisions).

Form 8823 is the primary source of LIHTC casework for SB/SE Division Examination classification. This source document identifies building owners who received an LIHTC allocation and that the HCA has found either the building was disposed or potential building noncompliance that could lead to credit recapture. Previously, the SB/SE Division Examination analyst considered five potential items on Form 8823 that could lead to credit recapture. Recently, the SB/SE Division Examination analyst began analyzing Forms 8823 beyond the five items to find the most egregious cases to improve case productivity. In addition, SB/SE Division Examination recently started preventing LIHTC case closures until the LIHTC analyst has been contacted to ensure that LIHTC issues were addressed.

We requested LIHTC examination closure statistics and obtained data extracts from the Audit Information Management System, as well as reviewed examination statistics from the IRS Data Books for FYs 2016 through 2019.²⁰ Our analysis, summarized in Figure 12, determined that recent LIHTC examination casework has not identified significant noncompliance for the resources invested and may have increased taxpayer burden due to unnecessary examinations. Of the 260 LIHTC returns involving individuals, corporations, S-corporations, and partnerships selected for examination, 85 (33 percent) were closed by survey before an examination was conducted.²¹ The remaining 175 LIHTC returns examined required 49,248 examiner hours and resulted in 98 no-changes (56 percent) and \$58.9 million in additional tax assessments.²² The LIHTC examination no-change rates for FYs 2016 through 2019 are significantly higher than the average no-change rates for most examinations, including individuals (65 percent versus 10 percent), and partnerships (66 percent versus 41 percent).

²⁰ The Audit Information Management System is a computer system used by IRS Examination functions to control returns, input assessments/adjustments to the Master File, and provide management reports.

²¹ A survey is a tax return selected for audit but closed before an audit was conducted.

²² There were also approximately \$5 million in adjustments that did not result in additional tax assessments to the return being examined.

Figure 12: Results of Closed LIHTC Examination Cases for FYs 2016 Through 2019

Taxpayer Type	Examination Results								
	LIHTC Returns Selected (260)			No Change Percentage		Assessments ²³		Adjustments	
	Survey	Examined	Hours	LIHTC Exams	All Exams	Amount	Average	Amount	Average
Individual	0	26	136	65%	10%	\$163,581	\$6,292	\$0	\$0
Corporation	12	35	42,924	26%	30%	\$58,759,882	\$1,678,854	\$0	\$0
S Corp	3	6	153	17%	30%	\$0	\$0	\$42,151	\$7,025
Partnership	70	108	6,035	66%	41%	\$0	\$0	\$4,942,528	\$45,764
Totals	85	175	49,248	56%	11%	\$58,923,463	\$336,706	\$4,984,679	\$28,484

Source: TIGTA analysis of data from the IRS Audit Information Management System.

IRS management stated that the relatively high no-change rates were due to the scope of reported noncompliance issues and that the five issues on Form 8823 used for examination return selection were not the most productive ones. Although IRS management informed us of plans to expand the number of issues to be considered on Form 8823, this form includes information only on building owners that are not necessarily the taxpayers ultimately claiming the LIHTC. Using Form 8823 as the primary source to select LIHTC returns for examination appears to be ineffective for identifying noncompliance, as shown by the high no-change rate for most classes of LIHTC examinations. This method limits the population of taxpayers to be selected for LIHTC examination to potentially noncompliant building owners that received an LIHTC allocation. Given the noncompliance issues subsequently discussed in this section that pertain to all taxpayers claiming the LIHTC, using Form 8823 as the primary source to select LIHTC returns for examination is not the best method to identify noncompliant taxpayers.

Another source for LIHTC examination casework are referrals from whistleblowers received by the IRS Whistleblower Office. We reviewed Whistleblower Office data and found 89 claims since FY 2015 that had an indication of an alleged issue involving low-income housing. Of these, 33 claims contained allegations related to the LIHTC, with 24 involving building owners or recipients of the LIHTC and nine involving tenants living in LIHTC buildings. [REDACTED]

LIHTC data are limited for computerized document matching for noncompliance

Ultimately, the LIHTC amount reported on a taxpayer's Form 3800 LIHTC should match to the amount shown on a building owner's Form 8609-A (or indirectly via a pass-through entity) and be supported by the HCA/building owner's Form 8609 used to report the LIHTC allocation. The IRS could check whether LIHTC claims are supported by conducting computerized document matching, as it does in its underreporter program for other items on individual and business tax returns (e.g., wages, dividends, mortgage interest). However, the underreporter program is limited for matching LIHTC claims. Effective document matching requires accurate, complete, and available data to indicate problems with LIHTC claims for the IRS to check. We noted in previous sections of this report the problems with the data for Form 8609 and Form 8609-A submitted by the HCAs and building owners. In addition, LIHTC data are limited for computer

²³ Assessment amounts do not include a significant amount of abatements that totaled approximately \$1.3 billion. We plan to evaluate the cause of those abatements, including whether they are specifically related to the LIHTC.

matching because IRS Submission Processing does not transcribe all LIHTC data from Forms 3800, Forms 8609-A, and pass-through Schedules K-1 submitted on paper forms.²⁴ Due to these data limitations, we analyzed only LIHTC claims made on e-filed individual and business tax returns. Our analysis considered current year claims, excluding carryforward or carryback claims, for TYs 2015 through 2019.²⁵ In addition, the analysis did not consider the LIHTC movement between multiple pass-through entities before the final claim on a taxpayer tax return.

Significant amounts of the LIHTC appear to be claimed beyond the allowed 10-year period

Our analysis identified 20,175 LIHTC claims totaling about \$491.5 million on TYs 2018 and 2019 Forms 3800, Part III, Line 1d, for pre-2008 buildings, as shown in Figure 13. These claims are immediately questionable due to the 10-year period allowed for claiming LIHTC. For example, if a building was placed in service during CY 2007 (*i.e.*, the final year to place a pre-2008 building in service) and the building owner elected the 10-year credit period to begin the next year (*i.e.*, CY 2008), then the expected end of the credit period would be CY 2017. Any claim made afterwards (*i.e.*, TY 2018) on Line 1d is questionable as noncompliance or a taxpayer reporting error.

²⁴ TIGTA and the Government Accountability Office have previously recommended increasing the use of Schedule K-1 data to identify taxpayer noncompliance. TIGTA, Report No. 2019-30-078, *The Use of Schedule K-1 Data to Address Taxpayer Noncompliance Can Be Improved* (Sept. 2019) and Government Accountability Office, GAO-21-102, *Tax Administration: Better Coordination Could Improve IRS's Use of Third-Party Information Reporting to Help Reduce the Tax Gap* (Dec. 15, 2020).

²⁵ TIGTA previously recommended improvements to the IRS compliance process for General Business Credit carryforward/carryback claims, see TIGTA, Report No. 2019-40-044, *Billions of Dollars of Potentially Erroneous Carryforward Claims Are Still Not Being Addressed* (Aug. 2019).

Figure 13: Potentially Questionable LIHTCs for Pre-2008 Buildings Claimed on E-Filed Forms 3800, Part III, Line 1d for TYs 2018 and 2019

Return Type	TY	No. of Claims	Amount of Claims
Form 1040	2018	9,757	\$21,025,099
	2019	7,127	\$25,418,066
Form 1040-NR	2018	8	\$222
	2019	4	\$26,265
Form 1041	2018	242	\$163,623
	2019	195	\$731,344
Non-Consolidated Form 1120	2018	512	\$20,062,141
	2019	320	\$3,998,883
Consolidated Form 1120 (parent/subsidiary reporting)	2018	1,384	\$268,066,602
	2019	619	\$152,002,098
Form 1120-F	2018	4	\$193
	2019	3	\$12
TOTAL OF FORMS	2018	11,907	\$309,317,880
	2019	8,268	\$182,176,668
GRAND TOTALS		20,175	\$491,494,548

Source: TIGTA analysis of data extracts for e-filed Forms 3800 submitted during Processing Years 2015 through 2020.

Significant numbers of LIHTC claims were not supported by return information

We were unable to reconcile all taxpayer LIHTC claims back to LIHTC allocations, but were able to check if current year claims (not carryforward or carryback claims) had support from a Form 8609-A or a pass-through Schedule K-1. Figure 14 shows that approximately 67,000 e-filed LIHTC claims (32 percent) totaling almost \$15.6 billion (36 percent of total claimed amount) lacked or did not match (over or under claim) support from Form 8609-A or a pass-through Schedule K-1. Most questionable LIHTC claims (45,617) were submitted by individuals, but the largest questionable LIHTC amounts (approximately \$15.4 billion) were submitted by corporations.

Because the IRS does not transcribe much of the data from information returns that are filed on paper, we were [REDACTED]

[REDACTED] In addition, due to the timing of our data extract of Processing Year 2020 Forms 8609-A, we were unable to check 106 LIHTC claims for \$200,366,625 when the taxpayer indicated that the credit came from a Form 8609-A.

Figure 14: Potentially Questionable LIHTCs for TYs 2015 Through 2019 Due to Lack of Support From Form 8609-A or Pass-Through Schedule K-1

Return Type	E-filed Form 3800 LIHTC Claims			Questionable LIHTC Claims		
	No. of Returns	No. of Claims	Amount of Claims	No. of Returns	No. of Claims	Amount of Claims
Form 1040	89,852	144,286	\$539,502,171	33,018	45,617	\$194,145,036
Form 1040-NR	42	57	\$34,233	24	26	\$30,601
Form 1041	2,428	3,561	\$35,572,526	967	1,268	\$8,402,645
Non-Consolidated Form 1120	16,094	23,911	\$3,659,718,282	2,057	4,926	\$2,809,668,650
Consolidated Form 1120 (parent/subsidiary reporting)	4,643	39,568	\$38,993,205,160	1,870	15,156	\$12,570,480,404
Form 1120-F	42	65	\$9,999,172	10	12	(\$22,412)
TOTAL OF FORMS	113,101	211,448	\$43,238,031,544	37,946	67,005	\$15,582,704,924

Source: TIGTA analysis of data extracts for e-file Forms 3800 submitted during Processing Years 2015 through 2020.

The general reasons for the questionable LIHTC claims are categorized in Figure 15. Most questionable claims involved taxpayer returns that indicated the LIHTC came from a pass-through entity, but no supporting documentation could be found in IRS databases. Included in the potentially questionable claims are 40 business tax returns (total claimed amount of \$1,215,000) and 2,339 individual tax returns (total claimed amount of \$14,890,103) received during TYs 2015 through 2019 that appear to be a fraudulent preparer tax scheme. We referred these returns to the IRS for consideration.

Figure 15: Selected Reasons for Potentially Questionable LIHTC Claims for TYs 2015 Through 2019

Reason for Potentially Questionable Claim	Number of Claims	Claimed Amount	Potentially Questionable Amount
No Form 8609-A support or amount mismatch with Form 8609-A	829	\$954,808,615	\$953,109,681
Amount mismatch with pass-through K-1 (includes under and over-claims)	14,341	\$11,586,811,557	\$823,300,808
No pass-through K-1 support	41,166	\$4,282,070,308	\$4,282,070,308
Pass-through listed for claim is also the taxpayer making the claim	535	\$1,540,508,143	\$1,540,508,143
Pass-through has not filed	10,134	\$7,983,715,984	\$7,983,715,984
TOTALS	67,005	\$26,347,914,607	\$15,582,704,924

Source: TIGTA analysis of data extracts for e-filed Forms 3800, Forms 8609-A, and Schedules K-1 submitted during Processing Years 2015 through 2020.

Since identification by computer document matching, research of tax data, and possibly taxpayer contact is necessary before a questionable claim can be confirmed as a reporting error or noncompliance, we researched a judgmental sample of 127 claims for the different taxpayer types listed in Figure 14, using the Employee User Portal for return data and the Integrated Data

Retrieval System for tax data.²⁶ The following are some examples to illustrate different types of questionable LIHTC claims that would require contact with the taxpayer to determine LIHTC noncompliance. No examination activity was found for any of these examples.

[REDACTED]

Our judgmental sample review also identified potential taxpayer and pass-through reporting issues that complicate compliance checking. The following are examples illustrating different situations that, if clarified, could prevent unnecessary examinations of LIHTC claims and streamline the identification of taxpayers to consider for potential noncompliance.

[REDACTED]

²⁶ The Employee User Portal is the internal IRS portal that allows employees to access IRS data and systems, such as tax administration processing systems and financial information systems, in a secure, authenticated session. The Integrated Data Retrieval System is an IRS computer system capable of retrieving or updating stored information. It works in conjunction with a taxpayer's account records. A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

[REDACTED]

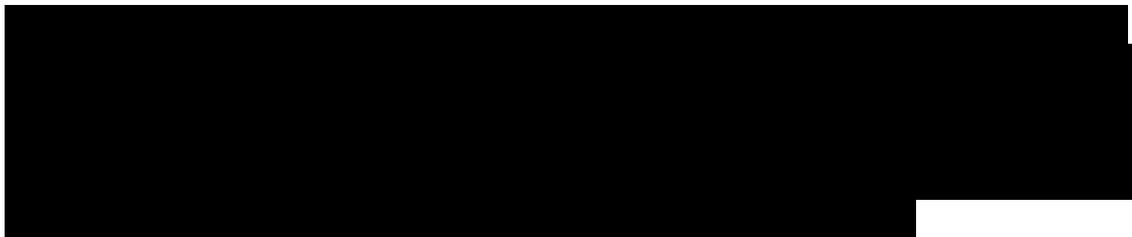
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



- A large rectangular area of text that has been completely redacted with black ink.

The Commissioner, SB/SE Division, should:

Recommendation 4: Evaluate possible revisions to Form 3800, Form 8586, and Form 8609-A to remove the option to make a current-year LIHTC claim for a pre-2008 building.

Management's Response: The IRS agreed with this recommendation. IRS management stated that changes will be initiated for Form 3800, Form 8586, and Form 8609-A to eliminate current-year LIHTC claims for pre-2008 buildings.

Recommendation 5: Determine the feasibility of establishing an examination selection process for taxpayers submitting questionable LIHTC claims on Forms 3800 that do not correspond to supporting Forms 8609-A or pass-through Schedules K-1.

Management's Response: The IRS agreed with this recommendation. IRS management stated that data will be reviewed to make recommendations for a selection process to compare LIHTC claims on Forms 3800 with Forms 8609-A and Schedules K-1.

Recommendation 6: Develop an action plan to identify possible causes and correct reporting errors on LIHTC documents.

Management's Response: The IRS disagreed with this recommendation. IRS management stated that reporting errors on LIHTC documents are corrected through existing processes and provided examples of errors addressed by the LIHTC Unit while processing HCA- and owner-submitted LIHTC documents.

Office of Audit Comment: Although the IRS has some processes to address reporting errors, our report identified approximately 67,000 e-filed LIHTC claims totaling almost \$15.6 billion that lacked or did not match support from Form 8609-A or a pass-through Schedule K-1. Therefore, TIGTA continues to recommend that the IRS make additional efforts to determine the causes of these reporting errors to streamline the identification of taxpayers to consider for potential noncompliance.

The IRS Has Provided Guidance to Housing Credit Agencies but Has Made Few Compliance Monitoring Reviews

The IRS has provided the HCAs with guidance, presentations, online reference materials, and a designated e-mail box for questions. In addition, the IRS conducts reviews of LIHTC allocation practices and compliance monitoring processes of the HCAs. If this continues on a consistent basis, it could be helpful in educating the HCAs about LIHTC requirements, processes, and procedures. However, we found that few HCA reviews were conducted because only one analyst is currently assigned to this program.

For CYs 2003 through 2018, only [REDACTED] of the 56 HCAs had a compliance monitoring review by the IRS. Starting in CY 2018, the IRS updated its framework and plans for conducting reviews of HCA LIHTC allocation practices and compliance monitoring processes. The framework includes factors to select an HCA for review and a template with references and questions to consider. Using this framework, along with conducting a survey of the HCAs and researching past reporting, the IRS identified 25 HCAs for contact. This included the HCAs that should have immediate contact, contingent on the availability of IRS staff and travel funds. [REDACTED] were conducted in CY 2019, including [REDACTED]. Due to Coronavirus Disease 2019 pandemic limitations, no reviews were conducted in CY 2020 or have been planned for CY 2021.

Because few HCA reviews have been conducted by the IRS, undetected errors or noncompliance can continue for years, even decades, which decreases public confidence in a fair tax system and decreases public perception that the LIHTC program is an equitable business opportunity. For example, IRS reviews of the HCAs include the HCA's qualified allocation plan. I.R.C. § 42(m) lists the criteria that the HCAs should use to award credits, such as tenant income, length of time that the projects are obligated to serve low-income tenants, and whether the projects contribute to a community revitalization plan. However, improper awards of the LIHTCs by the HCAs could continue unaddressed until the IRS has resources to provide education, guidance, and compliance reviews.

Recommendation 7: The Commissioner, SB/SE Division, should allocate additional resources, when available, to allow for increased HCA compliance monitoring reviews.

Management's Response: The IRS disagreed with this recommendation. IRS management stated that they recognize an oversight responsibility to review the credit allocation practices and compliance monitoring processes. However, they do not plan to commit additional resources to HCA compliance monitoring reviews due to competing resource needs.

Office of Audit Comment: Acknowledging oversight responsibility without taking adequate action does not reduce the risk of HCA noncompliance. Only eight of 56 HCAs have been reviewed in the past 19 years. The IRS has identified 25 HCAs for contact, with some needing immediate contact, which could take many years to review based on past action and resource commitments. Failure to provide additional resources to HCA compliance may decrease the public's confidence in a fair tax system and the perception that the LIHTC program is an equitable business opportunity.

Appendix I

Detailed Objective, Scope, and Methodology

The overall objective of this review was to assess the IRS's processes and procedures to ensure HCA, building owner, and taxpayer compliance with LIHTC provisions. To accomplish our objective, we:

- Determined requirements, guidance, processes, procedures, and forms for the LIHTC program. In addition, we reviewed prior reports and whistleblower allegations involving the LIHTC program.
- Assessed the IRS's processes and procedures to ensure HCA compliance with LIHTC provisions by reviewing allocation, certification, and monitoring activity. This included reviewing a computer extract from the LIHTC database for HCA-submitted Forms 8610, Schedules A, Forms 8609 Part I, and Forms 8823; reviewing LIHTC Unit inventory reports; discussing with IRS officials the quality review conducted for the LIHTC Unit's transcription of submitted forms/schedules; and reviewing IRS compliance monitoring and outreach conducted for the HCAs.
- Assessed the IRS's processes and procedures to ensure building owner compliance with LIHTC provisions by reviewing certification, elections, and credit computation activity. This included reviewing a computer extract from the LIHTC database for building owner-submitted Forms 8609, Part II; reviewing a computer extract from tax return information for building owner-submitted Forms 8609-A; and reviewing IRS outreach conducted for building owners.
- Assessed the IRS's processes and procedures to ensure taxpayer compliance with LIHTC provisions by reviewing taxpayer reporting and examination activity. This included reviewing computer extracts from tax return information for submission of Forms 3800; reviewing a judgmental sample of 127 LIHTC claims on Form 3800;¹ reviewing statistics for examination results; and reviewing IRS outreach conducted for taxpayers claiming the LIHTCs.

Performance of This Review

This review was performed with information obtained from the SB/SE Division and Whistleblower Office during the period January 2020 through July 2021. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Major contributors to the report were Matthew A. Weir, Assistant Inspector General for Audit (Compliance and Enforcement Operations); Linna Hung, Director; Robert Jenness, Audit Manager; Aaron Foote, Lead Auditor; Kenneth Krause, Auditor; John Park, Auditor; Karen Brown,

¹ A judgmental sample is a nonprobability sample, the results of which cannot be used to project to the population.

Applied Research and Technology Analyst; Hong Cao, Applied Research and Technology Analyst; Aric Kalynchuk, Applied Research and Technology Analyst; and Julia Woods, Applied Research and Technology Analyst.

Validity and Reliability of Data From Computer-Based Systems

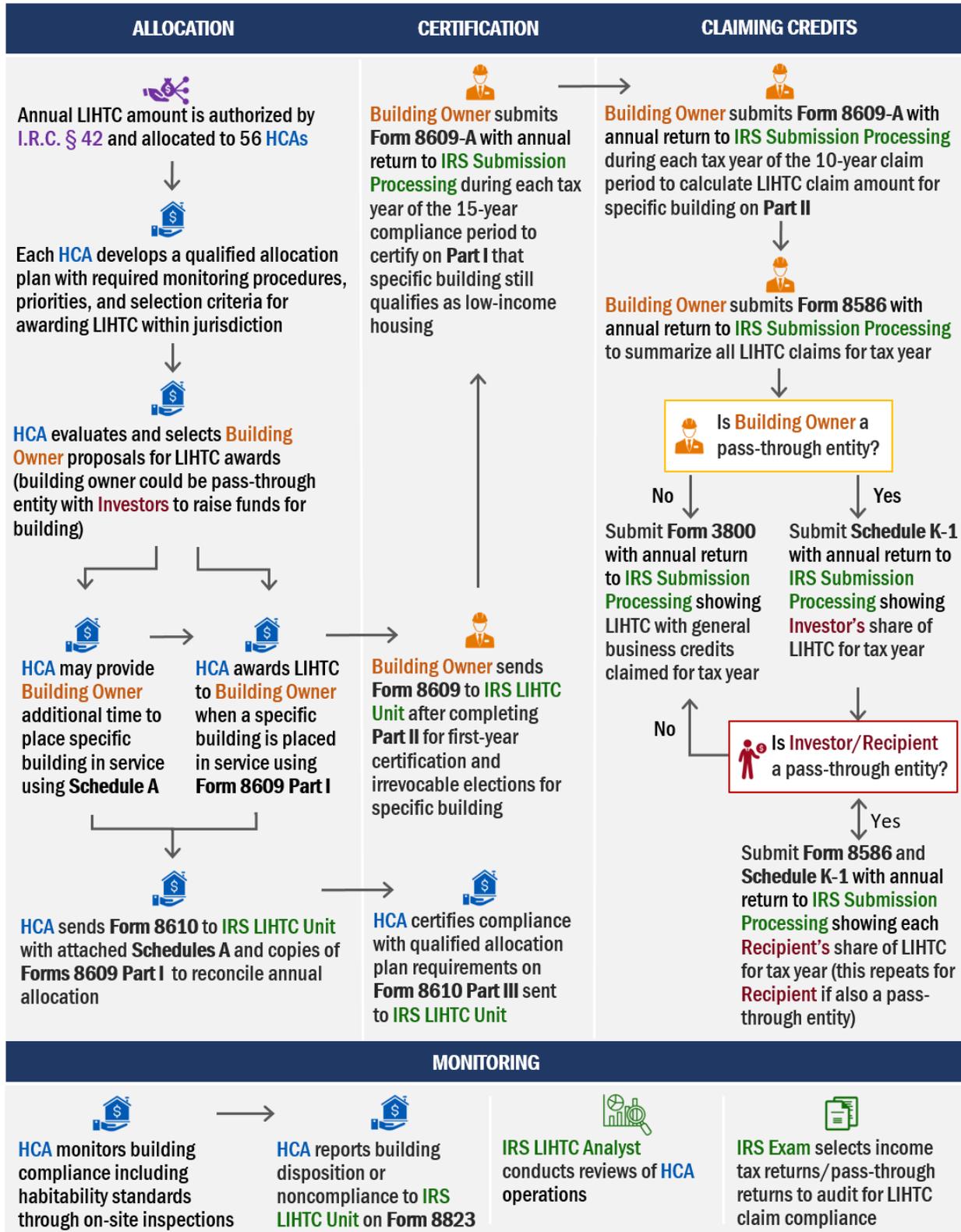
During this review, we obtained computer extracts of Forms 8610, Schedules A, Forms 8609, and Forms 8823 submitted by the HCAs or building owners that were available on the current LIHTC database as of March 10, 2020. We evaluated the data by 1) performing electronic testing of required data elements, 2) reviewing existing information about the data and the system that produced them, and 3) interviewing agency officials knowledgeable about the data. We determined that the data were sufficiently reliable for purposes of this report.

Additionally, we obtained electronic tax return information for submission of Forms 3800, Forms 8609-A, and Schedules K-1 from the Business and Individual Master Files for TYs 2015 through 2019. We evaluated the data by 1) performing electronic testing of required data elements, 2) reviewing existing information about the data and the system that produced them, and 3) reviewing selected judgmental samples to validate against IRS source data using the Employee User Portal. We determined that the data were sufficiently reliable for purposes of this report.

Internal Controls Methodology

Internal controls relate to management's plans, methods, and procedures used to meet their mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations. They include the systems for measuring, reporting, and monitoring program performance. We determined that the following internal controls were relevant to our audit objective: procedures to review and process LIHTC forms submitted by the HCAs and building owners. We evaluated these controls by reviewing the LIHTC Unit desk guide and form instructions, conducting a walkthrough of the process, and interviewing and corresponding with key personnel.

General Illustration of the LIHTC Program



Appendix III

Forms Sent to the LIHTC Unit by the HCAs and Building Owners

Form 8609: Used to authorize the LIHTC for a specific building. The HCA completes Part I and sends to the building owner (copy sent to the IRS) who completes Part II and sends completed form to the IRS.

<p>Form 8609 (Rev. May 2018) Department of the Treasury Internal Revenue Service</p>	<p>Low-Income Housing Credit Allocation and Certification</p> <p>▶ Go to www.irs.gov/Form8609 for instructions and the latest information.</p>	<p>OMB No. 1545-0088</p>
<p>Part I Allocation of Credit</p> <p>Check if: <input type="checkbox"/> Addition to Qualified Basis <input type="checkbox"/> Amended Form</p>		
<p>A Address of building (do not use P.O. box) (see instructions)</p>	<p>B Name and address of housing credit agency</p>	
<p>C Name, address, and TIN of building owner receiving allocation</p>	<p>D Employer identification number of agency</p>	
	<p>E Building identification number (BIN)</p>	
<p>TIN ▶</p>		
<p>1a Date of allocation ▶ _____</p>	<p>b Maximum housing credit dollar amount allowable</p>	<p>1b</p>
<p>2 Maximum applicable credit percentage allowable (see instructions)</p>		<p>2 _____ %</p>
<p>3a Maximum qualified basis</p>		<p>3a</p>
<p>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)(B). Enter the percentage to which the eligible basis was increased (see instructions)</p>		<p>3b 1 _____ %</p>
<p>4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)</p>		<p>4 _____ %</p>
<p>5 Date building placed in service ▶</p>		
<p>6 Check the boxes that describe the allocation for the building (check those that apply):</p>		
<p>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</p>		
<p>d <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized e <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures not federally subsidized</p>		
<p>f <input type="checkbox"/> Allocation subject to nonprofit set-aside under sec. 42(h)(5)</p>		
<p>Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only</p>		
<p>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 this form and to the best of my knowledge and belief, the information is true, correct, and complete.</p>		
<p>▶ _____ Signature of authorized official</p>	<p>▶ _____ Name (please type or print)</p>	<p>▶ _____ Date</p>
<p>Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period</p>		
<p>7 Eligible basis of building (see instructions)</p>		<p>7</p>
<p>8a Original qualified basis of the building at close of first year of credit period</p>		<p>8a</p>
<p>b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>9a If box 8a or box 8d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)?</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>10 Check the appropriate box for each election.</p>		
<p>Caution: Once made, the following elections are irrevocable.</p>		
<p>a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶</p>		<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>b Elect not to treat large partnership as taxpayer (section 42(j)(5)) ▶</p>		<p><input type="checkbox"/> Yes</p>
<p>c Elect minimum set-aside requirement (section 42(g)) (see instructions):</p>		
<p><input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> Average income <input type="checkbox"/> 25-60 (N.Y.C. only)</p>		
<p>d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)</p>		<p><input type="checkbox"/> 15-40</p>
<p>Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.</p>		
<p>▶ _____ Signature</p>	<p>▶ _____ Taxpayer identification number</p>	<p>▶ _____ Date</p>
<p>▶ _____ Name (please type or print)</p>	<p>▶ _____ First year of the credit period</p>	

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 8610: Used by the HCA to reconcile annual allocation, certify compliance with requirements, and transmit allocation support documents to the IRS. Lines 14 and 15 were removed starting in TY 2020.

Form 8610 Department of the Treasury Internal Revenue Service	Annual Low-Income Housing Credit Agencies Report ▶ Under section 42(f)(3) of the Internal Revenue Code. ▶ Go to www.irs.gov/Form8610 for the latest information.	OMB No. 1545-0090 <div style="font-size: 2em; font-weight: bold;">2019</div>	
Name of housing credit agency		Employer identification number of agency	
Address of housing credit agency		Check box if amended report <input type="checkbox"/>	
		FOR IRS USE ONLY	
Part I Reconciliation of Attached Forms and Schedules			
1 Enter the number of attached Forms 8609 used to allocate credit in 2019	1		
2a Enter the total number of attached Forms 8609 for credits (1) allocated prior to 2019 and (2) attributable under section 42(h)(4) to projects financed by tax-exempt bonds	2a		
b Enter the total dollar amount of credits attributable to projects financed by tax-exempt bonds as described in 2a(2) above ▶ \$			
3 Enter the number of attached Schedules A (Form 8610) reporting 2019 carryover allocations	3		
4 Total number of attached forms and schedules. Add lines 1, 2a, and 3	4		
Part II Reconciliation of Credit Ceilings and Allocations (see instructions)			
5a Enter the larger of \$2.75625 multiplied by the state's population or \$3,166,875	5a		
b Enter the amount of credit ceiling returned in 2019 from allocations prior to 2019. See instructions	5b		
c Enter the amount (if any) allocated to the state from the 2019 National Pool	5c		
d Add lines 5a, 5b, and 5c	5d		
e Enter the unused state housing credit ceiling (if any) from the 2018 Form 8610, line 9	5e		
f Total state housing credit ceiling for 2019. Add lines 5d and 5e	5f		
g Enter the total amount included on line 5f that was allocated during 2019 to qualified nonprofit organizations under section 42(h)(5). See instructions ▶ \$			
6a Enter the total dollar amount of credits from Forms 8609 used to allocate credit in 2019	6a		
b Enter the total dollar amount of credits from Schedules A (Form 8610), line 5	6b		
c Total credits allocated during 2019. Add lines 6a and 6b (can't exceed line 5f)	6c		
7 Enter the smaller of line 5e or line 6c	7		
8 Subtract line 7 from line 6c	8		
9 State's unused housing credit ceiling carryover to 2020. Subtract line 8 from line 5d. If zero or less, enter -0-	9		
10 Unused 2018 carryover assigned to 2020 National Pool. Subtract line 7 from line 5e	10		
Part III Compliance With Low-Income Housing Requirements (see instructions)			
11 Does the state's qualified allocation plan in effect for 2019 include compliance monitoring procedures as required in section 42(m)(1)(B)(iii) and Regulations section 1.42-5(a)(2), including monitoring for habitability standards through regular site visits? (If "No," attach an explanation.)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
12 Has the housing credit agency, for 2019 (or its most recent 12-month operating period), complied with all applicable requirements under the compliance monitoring procedures in its qualified allocation plan? (If "No," attach an explanation.)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
13 Has the housing credit agency, for 2019 (or its most recent 12-month operating period), complied with the requirements of its monitoring procedures to fulfill its notification of noncompliance responsibilities under Regulations section 1.42-5(e)? (If "No," attach an explanation.)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
14 Number of buildings subject to monitoring	14		
15 Number of buildings for which compliance monitoring was completed	15		
Under penalties of perjury, I declare that I have examined this report and accompanying forms, schedules, binding agreements, and election statements, and other attachments, and to the best of my knowledge and belief, they are true, correct, and complete.			
_____ Signature of Authorizing Official		_____ Print Name and Title	
		_____ Date	
For Paperwork Reduction Act Notice, see Instructions.		Cat. No. 63082F	Form 8610 (2019)

Schedule A (Form 8610): Used by the HCA to report specific building carryover allocations to the IRS.

SCHEDULE A (Form 8610) <small>(Rev. January 2010)</small> <small>Department of the Treasury</small> <small>Internal Revenue Service</small>		Carryover Allocation of Low-Income Housing Credit <small>▶ Attach to Form 8610.</small> <small>▶ Information about Schedule A (Form 8610) and its instructions is at www.irs.gov/form8610.</small>		<small>OMB No. 1545-0000</small>
Name of housing credit agency		Employer identification number of agency		
Address of housing credit agency		Check box if housing credit agency granted carryover allocation relief under Rev. Proc. 2014-49 <input type="checkbox"/>		Check box if amended carryover allocation <input type="checkbox"/>
1a Name of building owner receiving carryover allocation		2 Taxpayer identification number of building owner (include dash or dashes)		FOR IRS USE ONLY
1b Address of building owner receiving carryover allocation				
3a Check if the carryover allocation is: <input type="checkbox"/> building based or <input type="checkbox"/> project based				
b If the carryover allocation is subject to the nonprofit set-aside under section 42(h)(5), you must check "Yes." Otherwise, you must check "No" <input type="checkbox"/> Yes <input type="checkbox"/> No				
4 Date of carryover allocation ▶ _____				
5 Amount of carryover allocation				5
6 If a binding agreement (see instructions) was entered into, enter the maximum applicable credit percentage for:				<input type="checkbox"/>
a Acquisition cost				6a %
b Rehabilitation expenses				6b %
c New construction expenses				6c %

General Instructions

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

Purpose of Form

State housing credit agencies use Schedule A (Form 8610) to report carryover allocations.

Major Disaster Declarations

If a housing credit agency has granted any project relief for carryover allocations discussed in section 6 of Rev. Proc. 2014-49, 2014-37 I.R.B. 535, the agency must attach to Form 8610 a copy of the Schedule A (Form 8610) for the projects for which it has approved relief. These attached copies of Schedule A (Form 8610) must have the box checked that indicates the housing credit agency granted carryover allocation relief under Rev. Proc. 2014-49. The housing credit agency should only include Schedules A (Form

8610) for projects receiving approval of the carryover allocation relief since the agency last filed Form 8610. The information from these particular Schedules A (Form 8610) is not included on any line in Part I or Part II of Form 8610.

Specific Instructions

Line 4

Enter the date of allocation. This is the date the authorized official of the state housing agency signs and dates the carryover allocation document.

Line 5

Enter the amount of carryover allocation. If you checked the "building based" box on line 3a, enter the amount of credit allocated to the building under section 42(h)(1)(E). If you checked the "project based" box on line 3a, enter the amount of credit allocated to all the buildings in the project under section 42(h)(1)(F).

Lines 6a, b, and c

Complete these lines only if both of the following apply.

- There is a binding agreement between the housing credit agency and the building owner for a specific housing credit dollar amount.
- An election is made to use an applicable percentage for a month other than the month in which the property is placed in service.

See Regulations sections 1.42-6 and 1.42-8 for requirements that must be met.

The applicable percentage cannot be less than 9% for any building that (1) is not federally subsidized and (2) is placed in service after July 30, 2008. See section 42(b)(2) and Notice 2008-106, 2008-49 I.R.B. 1239.

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 8823: Used by the HCA to notify the IRS of specific building disposition or noncompliance with LIHTC provisions.

<p>Form 8823 (Rev. December 2019) Department of the Treasury Internal Revenue Service</p>	<p>Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition</p> <p>▶ File a separate Form 8823 for each building that is disposed of or goes out of compliance. ▶ Go to www.irs.gov/Form8823 for the latest information.</p>	<p>OMB No. 1545-1204</p> <p>Check here if this is an amended return ▶ <input type="checkbox"/></p>																																																						
<p>1 Building name (if any). Check if line 1 differs from Form 8809 ▶ <input type="checkbox"/></p> <p>Street address _____</p> <p>City or town, state, and ZIP code _____</p>																																																								
<p>2 Building identification number (BIN) _____</p>																																																								
<p>3 Owner's name. Check if line 3 differs from Form 8809 . . . ▶ <input type="checkbox"/></p> <p>Street address _____</p> <p>City or town, state, and ZIP code _____</p>																																																								
<p>4 Owner's taxpayer identification number <input type="checkbox"/> EIN <input type="checkbox"/> SSN</p>																																																								
<p>5 Total credit allocated to this BIN ▶ \$ _____</p>																																																								
<p>6 If this building is part of a multiple building project, enter the number of buildings in the project ▶ _____</p>																																																								
<p>7a Total number of residential units in this building ▶ _____</p>																																																								
<p>b Total number of low-income units in this building ▶ _____</p>																																																								
<p>c Total number of residential units in this building determined to have noncompliance issues (see instructions) ▶ _____</p>																																																								
<p>d Total number of units reviewed by agency (see instructions) ▶ _____</p>																																																								
<p>8 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY) _____</p>																																																								
<p>9 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY) _____</p>																																																								
<p>10 Check this box if you are filing only to show correction of a previously reported noncompliance problem . . . ▶ <input type="checkbox"/></p>																																																								
<p>11 Check the box(es) that applies:</p> <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:80%;"></th> <th style="width:10%; text-align: center;">Out of compliance</th> <th style="width:10%; text-align: center;">Noncompliance corrected</th> </tr> </thead> <tbody> <tr><td>a Household income above income limit upon initial occupancy</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>b Owner failed to correctly complete or document tenant's annual income recertification</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>c Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>e Changes in Eligible Basis or the Applicable Percentage (see instructions)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>f Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>g Gross rent(s) exceeds limits</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>h Project not available to the general public (see instructions) (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(i)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>l Low-income units occupied by nonqualified full-time students</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>m Owner did not properly calculate utility allowance</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>n Owner has failed to respond to agency requests for monitoring reviews</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>o Low-income units used on a transient basis (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>p Building is no longer in compliance nor participating in the section 42 program. (Attach explanation.)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> <tr><td>q Other noncompliance issues (attach explanation)</td><td style="text-align: center;"><input type="checkbox"/></td><td style="text-align: center;"><input type="checkbox"/></td></tr> </tbody> </table>				Out of compliance	Noncompliance corrected	a Household income above income limit upon initial occupancy	<input type="checkbox"/>	<input type="checkbox"/>	b Owner failed to correctly complete or document tenant's annual income recertification	<input type="checkbox"/>	<input type="checkbox"/>	c Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>	d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	<input type="checkbox"/>	<input type="checkbox"/>	e Changes in Eligible Basis or the Applicable Percentage (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>	f Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>	g Gross rent(s) exceeds limits	<input type="checkbox"/>	<input type="checkbox"/>	h Project not available to the general public (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>	i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(i)	<input type="checkbox"/>	<input type="checkbox"/>	j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)	<input type="checkbox"/>	<input type="checkbox"/>	k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	<input type="checkbox"/>	<input type="checkbox"/>	l Low-income units occupied by nonqualified full-time students	<input type="checkbox"/>	<input type="checkbox"/>	m Owner did not properly calculate utility allowance	<input type="checkbox"/>	<input type="checkbox"/>	n Owner has failed to respond to agency requests for monitoring reviews	<input type="checkbox"/>	<input type="checkbox"/>	o Low-income units used on a transient basis (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>	p Building is no longer in compliance nor participating in the section 42 program. (Attach explanation.)	<input type="checkbox"/>	<input type="checkbox"/>	q Other noncompliance issues (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
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q Other noncompliance issues (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>																																																						
<p>12 Additional information for any line above. Attach explanation and check box ▶ <input type="checkbox"/></p>																																																								
<p>13a Building disposition by <input type="checkbox"/> Sale <input type="checkbox"/> Foreclosure <input type="checkbox"/> Destruction <input type="checkbox"/> Other (attach explanation)</p>																																																								
<p>b Date of disposition (MMDDYYYY) _____</p>																																																								
<p>c New owner's name _____</p> <p>Street address _____</p> <p>City or town, state, and ZIP code _____</p>	<p>d New owner's taxpayer identification number <input type="checkbox"/> EIN <input type="checkbox"/> SSN</p> <p>14 Name of contact person _____</p> <p>15 Telephone number of contact person _____ Ext. _____</p>																																																							
<p>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.</p>																																																								
<p>Signature of authorizing official _____</p>		<p>Date (MMDDYYYY) _____</p>																																																						
<p>Print name and title _____</p>																																																								
<p>For Paperwork Reduction Act Notice, see instructions. Cat. No. 12308D Form 8823 (Rev. 12-2019)</p>																																																								

Appendix IV

Forms and Schedules Used to Claim the LIHTC on Income Tax Returns or Pass-Through Returns

Form 3800: Used by taxpayers to claim general business credits. Minimum three-page form with the LIHTCs entered on Part III Line 1d for pre-2008 buildings or Line 4d for post-2007 buildings.

Form 3800	General Business Credit	OMB No. 1545-0895
Department of the Treasury Internal Revenue Service (99)	▶ Go to www.irs.gov/Form3800 for instructions and the latest information. ▶ You must attach all pages of Form 3800, pages 1, 2, and 3, to your tax return.	2019 Attachment Sequence No. 22
Name(s) shown on return		Identifying number
Part I Current Year Credit for Credits Not Allowed Against Tentative Minimum Tax (TMT) (See instructions and complete Part(s) III before Parts I and II.)		
1 General business credit from line 2 of all Parts III with box A checked		1
2 Passive activity credits from line 2 of all Parts III with box B checked	2	
3 Enter the applicable passive activity credits allowed for 2019. See instructions		3
4 Carryforward of general business credit to 2019. Enter the amount from line 2 of Part III with box C checked. See instructions for statement to attach		4
5 Carryback of general business credit from 2020. Enter the amount from line 2 of Part III with box D checked. See instructions		5
6 Add lines 1, 3, 4, and 5		6
Part II Allowable Credit		
7 Regular tax before credits:		
<ul style="list-style-type: none"> • Individuals. Enter the sum of the amounts from Form 1040 or 1040-SR, line 12a, and Schedule 2 (Form 1040 or 1040-SR), line 2, or the sum of the amounts from Form 1040-NR, lines 42 and 44 • Corporations. Enter the amount from Form 1120, Schedule J, Part I, line 2; or the applicable line of your return • Estates and trusts. Enter the sum of the amounts from Form 1041, Schedule G, lines 1a and 1b; or the amount from the applicable line of your return 	}	7
8 Alternative minimum tax:		
<ul style="list-style-type: none"> • Individuals. Enter the amount from Form 6251, line 11 • Corporations. Enter -0- • Estates and trusts. Enter the amount from Schedule I (Form 1041), line 54 	}	8
9 Add lines 7 and 8		9
10a Foreign tax credit	10a	
b Certain allowable credits (see instructions)	10b	
c Add lines 10a and 10b		10c
11 Net income tax. Subtract line 10c from line 9. If zero, skip lines 12 through 15 and enter -0- on line 16		11
12 Net regular tax. Subtract line 10c from line 7. If zero or less, enter -0-	12	
13 Enter 25% (0.25) of the excess, if any, of line 12 over \$25,000. See instructions	13	
14 Tentative minimum tax:		
<ul style="list-style-type: none"> • Individuals. Enter the amount from Form 6251, line 9 • Corporations. Enter -0- • Estates and trusts. Enter the amount from Schedule I (Form 1041), line 52 	}	14
15 Enter the greater of line 13 or line 14		15
16 Subtract line 15 from line 11. If zero or less, enter -0-		16
17 Enter the smaller of line 6 or line 16		17
C corporations: See the line 17 instructions if there has been an ownership change, acquisition, or reorganization.		

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 3800 (2019)

Page **Z**

Part II Allowable Credit *(continued)*

Note: If you are not required to report any amounts on line 22 or 24 below, skip lines 18 through 25 and enter -0- on line 26.

18 Multiply line 14 by 75% (0.75). See instructions	18	
19 Enter the greater of line 13 or line 18	19	
20 Subtract line 19 from line 11. If zero or less, enter -0-	20	
21 Subtract line 17 from line 20. If zero or less, enter -0-	21	
22 Combine the amounts from line 3 of all Parts III with box A, C, or D checked	22	
23 Passive activity credit from line 3 of all Parts III with box B checked	23	
24 Enter the applicable passive activity credit allowed for 2019. See instructions	24	
25 Add lines 22 and 24	25	
26 Empowerment zone and renewal community employment credit allowed. Enter the smaller of line 21 or line 25	26	
27 Subtract line 13 from line 11. If zero or less, enter -0-	27	
28 Add lines 17 and 26	28	
29 Subtract line 28 from line 27. If zero or less, enter -0-	29	
30 Enter the general business credit from line 5 of all Parts III with box A checked	30	
31 Reserved	31	
32 Passive activity credits from line 5 of all Parts III with box B checked	32	
33 Enter the applicable passive activity credits allowed for 2019. See instructions	33	
34 Carryforward of business credit to 2019. Enter the amount from line 5 of Part III with box C checked and line 6 of Part III with box G checked. See instructions for statement to attach	34	
35 Carryback of business credit from 2020. Enter the amount from line 5 of Part III with box D checked. See instructions	35	
36 Add lines 30, 33, 34, and 35	36	
37 Enter the smaller of line 29 or line 36	37	
38 Credit allowed for the current year. Add lines 28 and 37. Report the amount from line 38 (if smaller than the sum of Part I, line 6, and Part II, lines 25 and 36, see instructions) as indicated below or on the applicable line of your return. • Individuals. Schedule 3 (Form 1040 or 1040-SR), line 6, or Form 1040-NR, line 51 • Corporations. Form 1120, Schedule J, Part I, line 5c • Estates and trusts. Form 1041, Schedule G, line 2b	38	

Form **3800** (2019)

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 3800 (2019)

Page **3**

Name(s) shown on return

Identifying number

Part III General Business Credits or Eligible Small Business Credits (see instructions)

Complete a separate Part III for each box checked below. See instructions.

- | | |
|--|---|
| <p>A <input type="checkbox"/> General Business Credit From a Non-Passive Activity</p> <p>B <input type="checkbox"/> General Business Credit From a Passive Activity</p> <p>C <input type="checkbox"/> General Business Credit Carryforwards</p> <p>D <input type="checkbox"/> General Business Credit Carrybacks</p> | <p>E <input type="checkbox"/> Reserved</p> <p>F <input type="checkbox"/> Reserved</p> <p>G <input type="checkbox"/> Eligible Small Business Credit Carryforwards</p> <p>H <input type="checkbox"/> Reserved</p> |
|--|---|

I If you are filing more than one Part III with box A or B checked, complete and attach first an additional Part III combining amounts from all Parts III with box A or B checked. Check here if this is the consolidated Part III.

	(a) Description of credit	(b) If claiming the credit from a pass-through entity, enter the EIN	(c) Enter the appropriate amount
Note: On any line where the credit is from more than one source, a separate Part III is needed for each pass-through entity.			
1a	Investment (Form 3468, Part II only) (attach Form 3468)	1a	
b	Reserved	1b	
c	Increasing research activities (Form 6765)	1c	
d	Low-income housing (Form 8586, Part I only)	1d	
e	Disabled access (Form 8826) (see instructions for limitation)	1e	
f	Renewable electricity, refined coal, and Indian coal production (Form 8835)	1f	
g	Indian employment (Form 8845)	1g	
h	Orphan drug (Form 8820)	1h	
i	New markets (Form 8874)	1i	
j	Small employer pension plan startup costs (Form 8881) (see instructions for limitation)	1j	
k	Employer-provided child care facilities and services (Form 8882) (see instructions for limitation)	1k	
l	Biodiesel and renewable diesel fuels (attach Form 8864)	1l	
m	Low sulfur diesel fuel production (Form 8896)	1m	
n	Distilled spirits (Form 8906)	1n	
o	Nonconventional source fuel (carryforward only)	1o	
p	Energy efficient home (Form 8908)	1p	
q	Energy efficient appliance (carryforward only)	1q	
r	Alternative motor vehicle (Form 8910)	1r	
s	Alternative fuel vehicle refueling property (Form 8911)	1s	
t	Enhanced oil recovery credit (Form 8830)	1t	
u	Mine rescue team training (Form 8923)	1u	
v	Agricultural chemicals security (carryforward only)	1v	
w	Employer differential wage payments (Form 8932)	1w	
x	Carbon oxide sequestration (Form 8933)	1x	
y	Qualified plug-in electric drive motor vehicle (Form 8936)	1y	
z	Qualified plug-in electric vehicle (carryforward only)	1z	
aa	Employee retention (Form 5884-A)	1aa	
bb	General credits from an electing large partnership (carryforward only)	1bb	
zz	Other. Oil and gas production from marginal wells (Form 8904) and certain other credits (see instructions)	1zz	
2	Add lines 1a through 1zz and enter here and on the applicable line of Part I	2	
3	Enter the amount from Form 8844 here and on the applicable line of Part II	3	
4a	Investment (Form 3468, Part III) (attach Form 3468)	4a	
b	Work opportunity (Form 5884)	4b	
c	Biofuel producer (Form 6478)	4c	
d	Low-income housing (Form 8586, Part II)	4d	
e	Renewable electricity, refined coal, and Indian coal production (Form 8835)	4e	
f	Employer social security and Medicare taxes paid on certain employee tips (Form 8846)	4f	
g	Qualified railroad track maintenance (Form 8900)	4g	
h	Small employer health insurance premiums (Form 8941)	4h	
i	Increasing research activities (Form 6765)	4i	
j	Employer credit for paid family and medical leave (Form 8994)	4j	
z	Other	4z	
5	Add lines 4a through 4z and enter here and on the applicable line of Part II	5	
6	Add lines 2, 3, and 5 and enter here and on the applicable line of Part II	6	

Form **3800** (2019)

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 8586: Used to summarize LIHTC claims from pre-2008 buildings or post-2007 buildings. Taxpayers, not pass-through entities, whose only source of credit is from pass-through entities are not required to complete this form and can instead report credit directly on Form 3800.

<p>Form 8586 (Rev. December 2016) Department of the Treasury Internal Revenue Service (90)</p>	<p>Low-Income Housing Credit</p> <p>▶ Attach to your tax return. ▶ Information about Form 8586 and its instructions is at www.irs.gov/form8586.</p>	<p>OMB No. 1545-0064</p> <p>Attachment Sequence No. 36a</p>
Name(s) shown on return		Identifying number
Part I Buildings Placed in Service Before 2008		
1 Number of Forms 8609-A attached for buildings placed in service before 2008 ▶ _____		
2 Has there been a decrease in the qualified basis of any buildings accounted for on line 1 since the close of the preceding tax year? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter the building identification numbers (BINs) of the buildings that had a decreased basis. If you need more space, attach a schedule.		
(i) _____ (ii) _____ (iii) _____ (iv) _____		
3 Current year credit from attached Form(s) 8609-A for buildings placed in service before 2008 (see instructions)	3	
4 Low-income housing credit for buildings placed in service before 2008 from partnerships, S corporations, estates, and trusts	4	
5 Add lines 3 and 4. Estates and trusts, go to line 6. Partnerships and S corporations, stop here and report this amount on Schedule K. All others, stop here and report this amount on Form 3800, Part III, line 1d, column (c)	5	
6 Amount allocated to beneficiaries of the estate or trust (see instructions)	6	
7 Estates and trusts, subtract line 6 from line 5. Report this amount on Form 3800, Part III, line 1d, column (c)	7	
Part II Buildings Placed in Service After 2007		
8 Number of Forms 8609-A attached for buildings placed in service after 2007 ▶ _____		
9 Has there been a decrease in the qualified basis of any buildings accounted for on line 8 since the close of the preceding tax year? <input type="checkbox"/> Yes <input type="checkbox"/> No If "Yes," enter the building identification numbers (BINs) of the buildings that had a decreased basis. If you need more space, attach a schedule.		
(i) _____ (ii) _____ (iii) _____ (iv) _____		
10 Current year credit from attached Form(s) 8609-A for buildings placed in service after 2007 (see instructions)	10	
11 Low-income housing credit for buildings placed in service after 2007 from partnerships, S corporations, estates, and trusts.	11	
12 Add lines 10 and 11. Estates and trusts, go to line 13. Partnerships and S corporations, stop here and report this amount on Schedule K. All others, stop here and report this amount on Form 3800, Part III, line 4d, column (c)	12	
13 Amount allocated to beneficiaries of the estate or trust (see instructions)	13	
14 Estates and trusts, subtract line 13 from line 12. Report this amount on Form 3800, Part III, line 4d, column (c)	14	
<p>For Paperwork Reduction Act Notice, see General Instructions. Cat. No. 639871 Form 8586 (Rev. 12-2016)</p>		

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 8609-A: Used by building owners who received HCA-authorized LIHTCs (not from a pass-through entity) to report compliance with LIHTC provisions and calculate the credit amount for a specific building.

<p>Form 8609-A (Rev. December 2008) Department of the Treasury Internal Revenue Service</p>	<p>Annual Statement for Low-Income Housing Credit</p> <p>▶ File with owner's federal income tax return. ▶ See separate instructions.</p>	<p>OMB No. 1545-0088</p> <hr/> <p>Attachment Sequence No. 36</p>
--	---	---

Name(s) shown on return	Identifying number
-------------------------	--------------------

Part I Compliance Information		Yes	No
A Building identification number (BIN) ▶			
B This Form 8609-A is for (check the box) ▶ a newly constructed or existing building <input type="checkbox"/> section 42(e) rehabilitation expenditures <input type="checkbox"/>			
C Do you have in your records the original Form 8609 (or a copy thereof) signed and issued by the housing credit agency for the building in A? If "No," see the instructions and stop here—do not go to Part II.			
D Did the building in A qualify as a part of a qualified low-income housing project and meet the requirements of section 42 as of the end of the tax year for which this form is being filed? If "No," see the instructions and stop here—do not go to Part II.			
E Was there a decrease in the qualified basis of the building in A for the tax year for which this form is being filed? If "Yes," see the instructions. If "No," and the entire credit has been claimed in prior tax years, stop here—do not go to Part II.			

Part II Computation of Credit			
1 Eligible basis of building	1		
2 Low-income portion (smaller of unit fraction or floor space fraction) (if first year of the credit period, see instructions)	2		
3 Qualified basis of low-income building. Multiply line 1 by line 2 (see instructions for exceptions)	3		
4 Part-year adjustment for disposition or acquisition during the tax year	4		
5 Credit percentage	5		
6 Multiply line 3 or line 4 by the percentage on line 5	6		
7 Additions to qualified basis, if any	7		
8 Part-year adjustment for disposition or acquisition during the tax year	8		
9 Credit percentage. Enter one-third of the percentage on line 5	9		
10 Multiply line 7 or line 8 by the percentage on line 9	10		
11 Section 42(f)(3)(B) modification	11		
12 Add lines 10 and 11	12		
13 Credit for building before line 14 reduction. Subtract line 12 from line 6	13		
14 Disallowed credit due to federal grants (see instructions)	14		
15 Credit allowed for building for tax year. Subtract line 14 from line 13, but do not enter more than the amount shown on Form 8609, Part I, line 1b	15		
16 Taxpayer's proportionate share of credit for the year (see instructions)	16		
17 Adjustments for deferred first-year credit (see instructions)	17		
18 Taxpayer's credit. Combine lines 16 and 17. Enter here and on Form 8586 (see instructions)	18		

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Form 8611: Used to report recapture of the LIHTC for a specific building.

Form 8611 (Rev. December 2019) Department of the Treasury Internal Revenue Service		Recapture of Low-Income Housing Credit ▶ Attach to your return. ▶ Go to www.irs.gov/Form8611 for instructions and the latest information. Note: Complete a separate Form 8611 for each building to which recapture applies.		OMB No. 1545-1035 Attachment Sequence No. 90
A Name(s) shown on return			B Identifying number	
C Address of building (as shown on Form 8809)		D Building identification number (BIN)	E Date placed in service (from Form 8809)	
F If building is financed in whole or part with tax-exempt bonds, see instructions and furnish:			(2) Date of issue	
(1) Issuer's name				
(3) Name of issue			(4) CUSIP number	
Note: Skip lines 1-7 and go to line 8 if recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust). However, section 42(j)(5) partnerships must complete lines 1 through 7.				
1 Enter total credits reported on Form 8586 in prior years for this building		1		
2 Credits included on line 1 attributable to additions to qualified basis (see instructions)		2		
3 Credits subject to recapture. Subtract line 2 from line 1		3		
4 Credit recapture percentage (see instructions)		4		
5 Accelerated portion of credit. Multiply line 3 by line 4		5		
6 Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions)		6		
7 Amount of accelerated portion recaptured (see instructions if prior recapture on building). Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 16. All other flow-through entities enter the result here and enter each recipient's share in the appropriate box of Schedule K-1. Generally, flow-through entities will stop here. (Note: An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.)		7		
8 Enter recapture amount from flow-through entity (see Note above)		8		
9 Enter the unused portion of the accelerated amount from line 7 (see instructions)		9		
10 Net recapture. Subtract line 9 from line 7 or line 8. If less than zero, enter -0-		10		
11 Enter interest on the line 10 recapture amount (see instructions)		11		
12 Total amount subject to recapture. Add lines 10 and 11		12		
13 Unused credits attributable to this building reduced by the accelerated portion included on line 9 (see instructions)		13		
14 Recapture tax. Subtract line 13 from line 12. If zero or less, enter -0-. Enter the result here and on the appropriate line of your tax return (see instructions). If more than one Form 8611 is filed, add the line 14 amounts from all forms and enter the total on the appropriate line of your return		14		
15 Carryforward of the low-income housing credit attributable to this building. Subtract line 12 from line 13. If zero or less, enter -0- (see instructions)		15		
Only Section 42(j)(5) partnerships need to complete lines 16 and 17.				
16 Enter interest on the line 7 recapture amount (see instructions)		16		
17 Total recapture. Add lines 7 and 16 (see instructions)		17		

For Paperwork Reduction Act Notice, see Instructions.

Cat. No. 63983Q

Form **8611** (Rev. 12-2019)

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Schedule K-1 (Form 1041): Used by an estate/trust to report a beneficiary's share of income, deductions, and credits. The LIHTC would be listed on Line 13 using code C.

661117
 Final K-1 Amended K-1 OMB No. 1545-0002

Schedule K-1 (Form 1041) **2019**
 Department of the Treasury For calendar year 2019, or tax year
 Internal Revenue Service

beginning ending

Beneficiary's Share of Income, Deductions, Credits, etc. ▶ See back of form and instructions.

Part I Information About the Estate or Trust		Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items	
A Estate's or trust's employer identification number		1 Interest income	11 Final year deductions
B Estate's or trust's name		2a Ordinary dividends	
C Fiduciary's name, address, city, state, and ZIP code		2b Qualified dividends	
D <input type="checkbox"/> Check if Form 1041-T was filed and enter the date it was filed _____		3 Not short-term capital gain	
E <input type="checkbox"/> Check if this is the final Form 1041 for the estate or trust		4a Not long-term capital gain	
Part II Information About the Beneficiary			
F Beneficiary's identifying number		4b 28% rate gain	12 Alternative minimum tax adjustment
G Beneficiary's name, address, city, state, and ZIP code		4c Unrecaptured section 1250 gain	
H <input type="checkbox"/> Domestic beneficiary <input type="checkbox"/> Foreign beneficiary		5 Other portfolio and nonbusiness income	
		6 Ordinary business income	
		7 Not rental real estate income	13 Credits and credit recapture
		8 Other rental income	
		9 Directly apportioned deductions	
		10 Estate tax deduction	14 Other information
*See attached statement for additional information. Note: A statement must be attached showing the beneficiary's share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.			
For IRS Use Only			

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Schedule K-1 (Form 1065): Used by a partnership to report a partner's share of income, deductions, and credits. The LIHTC would be listed on Line 15 using code A, B, C, or D.

651119
OMB No. 1545-0123

Schedule K-1 (Form 1065)
 Department of the Treasury
 Internal Revenue Service

2019

For calendar year 2019, or tax year

beginning / / 2019 ending / /

Partner's Share of Income, Deductions, Credits, etc.
▶ See back of form and separate instructions.

Final K-1
 Amended K-1

Part III Partner's Share of Current Year Income, Deductions, Credits, and Other Items

1	Ordinary business income (loss)	15	Credits
2	Net rental real estate income (loss)		
3	Other net rental income (loss)	16	Foreign transactions
4a	Guaranteed payments for services		
4b	Guaranteed payments for capital		
4c	Total guaranteed payments		
5	Interest income		
6a	Ordinary dividends		
6b	Qualified dividends		
6c	Dividend equivalents	17	Alternative minimum tax (AMT) items
7	Royalties		
8	Net short-term capital gain (loss)		
9a	Net long-term capital gain (loss)	18	Tax-exempt income and nondeductible expenses
9b	Collectibles (28%) gain (loss)		
9c	Uncaptured section 1250 gain		
10	Net section 1231 gain (loss)		
11	Other income (loss)	19	Distributions
12	Section 179 deduction		
13	Other deductions		
14	Self-employment earnings (loss)		
21	<input type="checkbox"/> More than one activity for at-risk purposes*		
22	<input type="checkbox"/> More than one activity for passive activity purposes*		
*See attached statement for additional information.			

Part I Information About the Partnership

A Partnership's employer identification number _____

B Partnership's name, address, city, state, and ZIP code _____

C IRS Center where partnership filed return ▶ _____

D Check if this is a publicly traded partnership (PTP)

Part II Information About the Partner

E Partner's SSN or TIN (Do not use TIN of a disregarded entity. See Inst.) _____

F Name, address, city, state, and ZIP code for partner entered in E. See instructions. _____

G General partner or LLC member-manager Limited partner or other LLC member

H1 Domestic partner Foreign partner

H2 If the partner is a disregarded entity (DE), enter the partner's:
 TIN _____ Name _____

I1 What type of entity is this partner? _____

I2 If this partner is a retirement plan (IRA/SEP/Keogh/etc.), check here

J Partner's share of profit, loss, and capital (see instructions):

	Beginning	%	Ending	%
Profit				
Loss				
Capital				

Check if decrease is due to sale or exchange of partnership interest . . .

K Partner's share of liabilities:

	Beginning	Ending
Nonrecourse . . . \$		
Qualified nonrecourse financing . . . \$		
Recourse . . . \$		

Check this box if item K includes liability amounts from lower tier partnerships.

L Partner's Capital Account Analysis

Beginning capital account . . . \$	
Capital contributed during the year . . . \$	
Current year net income (loss) . . . \$	
Other increase (decrease) (attach explanation) \$	
Withdrawals & distributions . . . \$(_____)	
Ending capital account . . . \$	

M Did the partner contribute property with a built-in gain or loss?
 Yes No If "Yes," attach statement. See instructions.

N Partner's Share of Net Unrecognized Section 704(c) Gain or (Loss)

Beginning \$	
Ending \$	

For Paperwork Reduction Act Notice, see Instructions for Form 1065. www.irs.gov/Form1065 Cat. No. 11304R Schedule K-1 (Form 1065) 2019

Oversight of the Low-Income Housing Tax Credit Program Can Be Improved

Schedule K-1 (Form 1120-S): Used by an S-corporation to report a shareholder's share of income, deductions, and credits. The LIHTC would be listed on Line 13 using code A, B, C, or D.

671119

Final K-1 Amended K-1 OMB No. 1545-0123

Schedule K-1 (Form 1120-S) **2019**

Department of the Treasury For calendar year 2019, or tax year
Internal Revenue Service

beginning / / ending / /

Shareholder's Share of Income, Deductions, Credits, etc. ▶ See back of form and separate instructions.

Part I Information About the Corporation		Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items		
A Corporation's employer identification number	1 Ordinary business income (loss)	13	Credits	
B Corporation's name, address, city, state, and ZIP code	2 Not rental real estate income (loss)			
C IRS Center where corporation filed return	3 Other not rental income (loss)			
Part II Information About the Shareholder		4 Interest income		
D Shareholder's identifying number	5a Ordinary dividends			
E Shareholder's name, address, city, state, and ZIP code	5b Qualified dividends	14	Foreign transactions	
F Shareholder's percentage of stock ownership for tax year %	6 Royalties			
For IRS Use Only	7 Not short-term capital gain (loss)			
	8a Not long-term capital gain (loss)			
		8b Collectibles (28%) gain (loss)		
		8c Unrecaptured section 1250 gain		
		9 Not section 1231 gain (loss)		
		10 Other income (loss)	15	Alternative minimum tax (AMT) items
		11 Section 179 deduction	16	Items affecting shareholder basis
		12 Other deductions		
			17	Other information
		18 <input type="checkbox"/> More than one activity for at-risk purposes*		
	19 <input type="checkbox"/> More than one activity for passive activity purposes*			
	* See attached statement for additional information.			

Management's Response to the Draft Report



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D. C. 20224

December 15, 2021

MEMORANDUM FOR MICHAEL E. MCKENNEY
DEPUTY INSPECTOR GENERAL FOR AUDIT

FROM: De Lon Harris  Digitally signed by Gaarl D. Harris
Date: 2021.12.15 16:12:54 -0500'
Commissioner, Small Business/Self-Employed, Examination

SUBJECT: Draft Audit Report – Oversight of the Low-Income Housing Tax Credit Program Can Be Improved (Audit # 202030014)

Thank you for the opportunity to review and comment on the draft report, *Oversight of the Low-Income Housing Tax Credit Program Can Be Improved* (Audit # 202030014). Internal Revenue Code § 42 Low-Income Housing Tax Credit (LIHTC) was enacted by Congress as part of the Tax Reform Act of 1986. The purpose of the law is to encourage new construction and rehabilitation of existing buildings for use as low-income rental housing for households with income at or below specified income levels. It also provides incentives for taxpayers to make equity investments and, in exchange, receive tax credits and other tax benefits associated with ownership of the development.

The program is jointly administered by the IRS and state Housing Credit Agencies (HCAs). The HCAs are responsible for allocating annual credit ceiling amounts to specific buildings in their state. As such, the IRS does not have authority over the allocation process. Additionally, the IRS relies on HCAs to conduct compliance monitoring activities, including tenant file reviews and physical compliance inspections. The IRS continues to oversee the LIHTC program related to HCAs as well as taxpayers claiming the credit.

Recently we have implemented significant improvements to the LIHTC program that increase efficiency, improve data reliability, and reduce taxpayer burden. These improvements include implementing a new LIHTC database, increasing communications with HCAs, and updating internal processes and procedures. Additionally, we have developed new training courses and expanded quality reviews.

We agree there are opportunities to further improve administration of the LIHTC program however, TIGTA's report significantly overstates the extent of current concerns. TIGTA's analysis includes records dating back to 2014 which is prior to our October 2017 implementation of the new LIHTC database and significant improvements were realized.

For instance, the report indicates a nearly 46% error rate on Form 8609s submitted by building owners, but only 3% occurred after the new database was implemented. When looking at Forms 8609 submitted by HCAs, TIGTA identified 13,498 errors, none of which occurred after the new database was in place. And when reviewing Form 8823 submissions, TIGTA reported 2,337 errors, however only 4% happened after the new database had been implemented.

In general, the error rates referenced throughout the report do not reflect many improvements already made within the LIHTC program. As noted, improvement opportunities remain which we will continue to pursue, but not nearly to the extent implied in this report.

Attached is our detailed response to your recommendations. If you have any questions, please contact me or Scott Irick, Director, Examination Operations, SB/SE Division.

Attachment

RECOMMENDATION 1:

Ensure that additional system validity checks are implemented to improve the accuracy and reliability of the information in the HCA and building owner portions of the LIHTC database.

PLANNED CORRECTIVE ACTION:

A Compliance Data Environment (CDE) LIHTC database Change Request was submitted on 9/9/21 and approved on 9/21/21 that will enhance the Form 8609 data input validity checks. These additional validity checks will result in improved accuracy and completeness of the reports used for program monitoring. We cannot agree to ensure the additional system validity checks are implemented because that is subject to budget constraints, competing priorities, and resource allocations.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 2:

Establish an effective quality review system for the processing of LIHTC forms received from HCAs and building owners to identify areas requiring corrective action, employee training, or outreach.

PLANNED CORRECTIVE ACTION:

We will conduct additional training for campus managers on reviewing reports and additional training for employees inputting the forms.

IMPLEMENTATION DATE:

October 15, 2022

RESPONSIBLE OFFICIAL:

Director, Exam Quality and Technical Support

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls

PLANNED CORRECTIVE ACTION: We will communicate patterns of submission errors and areas in need of quality improvement to the Exam Quality and Technical Support (EQTS) LIHTC Senior Program Analyst.

IMPLEMENTATION DATE:

October 15, 2023

RESPONSIBLE OFFICIAL:

Director, Campus Exam and AUR, SB/SE

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 3:

Establish an examination selection process for business owners submitting questionable Forms 8609-A that do not correspond to Forms 8609.

PLANNED CORRECTIVE ACTION:

We will develop a process to compare LIHTC amounts from Forms 8609-A to their allocated credit amounts on part 1 of Form 8609.

IMPLEMENTATION DATE:

February 15, 2023

RESPONSIBLE OFFICIAL:

Director, SB/SE, Exam Case Selection

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 4:

Evaluate possible revisions to Form 3800, Form 8586, and Form 8609-A to remove the option to make a current-year LIHTC claim for a pre-2008 building.

PLANNED CORRECTIVE ACTION:

We have evaluated possible revisions to the Form 8586 and have initiated changes for Tax Year 2021 to eliminate Part I, related to reporting of LIHTC when a building is placed in service date prior to 2008. We have evaluated possible revisions to the Form 3800 and have initiated changes for Tax Year 2021 that correspond with changes

initiated for Form 8586. We have evaluated possible revisions to the Form 8609-A and identified changes that will be appropriate for Tax Year 2023. These revisions will eliminate the need to provide reporting on buildings placed in service prior to 2008.

IMPLEMENTATION DATE:

Implemented

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 5:

Determine the feasibility of establishing an examination selection process for taxpayers submitting questionable LIHTC claims on Forms 3800 that do not correspond to supporting Forms 8609-A or pass-through Schedules K-1.

PLANNED CORRECTIVE ACTION:

We will review available data necessary to compare LIHTC claimed on Forms 3800 to Forms K-1 and 8609-A and make the appropriate recommendations for a selection process.

IMPLEMENTATION DATE:

October 15, 2023

RESPONSIBLE OFFICIAL(S):

Director, SB/SE, Exam Case Selection

CORRECTIVE ACTION MONITORING PLAN:

IRS will monitor this corrective action as part of our internal management system of controls.

RECOMMENDATION 6:

Develop an action plan to identify possible causes and correct reporting errors on LIHTC documents.

PLANNED CORRECTIVE ACTION:

The reporting errors on LIHTC documents are corrected through existing processes. For example, to address Form 8609 Part II issues, the LIHTC Campus Unit returns the form to taxpayers when they require corrections and appropriately follows up to address taxpayers who do not comply. Forms 8610 are addressed through the

LIHTC Database Reconciliation Process which identifies issues for tax examiners to communicate to the HCA directly and solicit amended forms as needed.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

RECOMMENDATION 7:

The Commissioner, SB/SE Division, should allocate additional resources, when available, to allow for increased HCA compliance monitoring reviews.

PLANNED CORRECTIVE ACTION:

The IRS recognizes that we have an oversight responsibility to review the credit allocation practices and compliance monitoring processes. However, due to a significant number of competing resource needs (e.g. more productive inventory and training), we do not plan to commit additional resources to the HCA compliance monitoring reviews.

IMPLEMENTATION DATE:

N/A

RESPONSIBLE OFFICIAL:

N/A

CORRECTIVE ACTION MONITORING PLAN:

N/A

Abbreviations

BIN	Building Identification Number
CY	Calendar Year
e-filed; e-filing	Electronically Filed; Electronic Filing
EIN	Employer Identification Number
FY	Fiscal Year
HCA	Housing Credit Agency
I.R.C.	Internal Revenue Code
IRS	Internal Revenue Service
LIHTC	Low-Income Housing Tax Credit
SB/SE	Small Business/Self-Employed
TIGTA	Treasury Inspector General for Tax Administration
TIN	Taxpayer Identification Number
TY	Tax Year



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By Web:

www.treasury.gov/tigta/

Or Write:

Treasury Inspector General for Tax Administration

P.O. Box 589

Ben Franklin Station

Washington, D.C. 20044-0589

Information you provide is confidential, and you may remain anonymous.