



IRS Notice 2021-12: Expiring Deadline Extensions for Sept. 30, 2021

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On Jan. 15, 2021 the IRS issued [Notice 2021-12](#), providing extensions granting relief for various Low-Income Housing Tax Credit (LIHTC) operational provisions. This article will address the extensions discussed in Section V of the Notice (Grant of Relief for Operational Provisions).

It is important to remember that all of these extensions/waivers **began on April 1, 2020**, and will **expire on Sept. 30, 2021**. Your LIHTC property management team will need to be prepared to resume these compliance requirements on or before **Oct. 1, 2021**. In addition, your LIHTC property management team needs to check with its state housing agency and LIHTC investor/limited partner to determine the type of tenant file documentation, inspections and reporting required.

Section V.A. provided a waiver for performing annual income certifications. This allowed LIHTC projects to omit income verifications from their annual recertification paperwork. LIHTC projects at 100% (with no additional sources of federal or state funding) already had this waiver under Section 42(g)(8)(B) (which provides a [special rule](#) for a 100% low-income building). This waiver did not eliminate the need to provide an Annual Student Certification for LIHTC households, and most state housing agencies have determined that the student certification must be present in the file regardless of the document waivers issued as a result of COVID-19.

Section V.B. eliminated the need for state agencies to perform compliance monitoring inspections from April 1, 2020, through Sept. 30, 2021. Many state housing agencies have already begun to resume scheduling onsite compliance inspections or, at a minimum, virtual inspections. Many LIHTC investors have also started scheduling virtual inspections.

The first step in ensuring that your project stays in compliance is to check with your state housing agency/investor to determine current inspection requirements and schedules. If your project is notified and/or local government agency has issued extended restrictions due to increasing



COVID-19 numbers or other issues that would prevent or otherwise prohibit onsite physical inspections, you will need to document those issues and notify the state housing agency and/or your LIHTC investor as to why the physical inspection must be delayed/rescheduled. Examples of non COVID-19 related causes for delay can include the following: wildfires, flooding or road closures.

Section V.C. allowed for the temporary closure or restricted access to the common areas and/or amenities that are included within your LIHTC project as long as those closures were related to the COVID-19 pandemic. Property management staff should ensure that written notices were provided to LIHTC households to let them know that the common areas and/or amenities would be restricted because of COVID-19. Furthermore, restriction signs should be posted in those areas that clearly note the COVID-19 restrictions. We also suggest that you take pictures of the COVID-19 restriction signs that are posted throughout your LIHTC project.

Section V.D. permitted state housing agencies to conduct telephonic hearings to meet the requirements of § 42(m)(1)(A). As long as the state housing agency provides toll-free telephone access to residents during the COVID-19 waiver period, it will be in compliance with this section of the code.

Section V.E. allowed LIHTC restricted units to be used for emergency housing for medical personnel and other essential workers. This waiver temporarily removed many of the restrictions that would prevent the use of LIHTC for this unique group of tenants. For example, income limits could be waived, the next available unit rule is modified, and the transient use restrictions are removed. Please see sections 12, 13 and 14 of Rev. Proc. 2014-49 and section 5, 6, and 7 of Rev, Proc. 2014-50 for additional guidance on this waiver. It is possible because of existing “major disasters” in the LIHTC project area that this waiver may be continued beyond the Sept. 30, 2021, expiration notice.

It is entirely possible, because of the continued changing COVID-19 landscape, that all the exceptions/waivers discussed here will be extended. Affordable housing professionals must be even more diligent in reviewing local, state and federal guidance related to our projects. This is in



addition to dealing with reduced staffing, delays in much-needed building materials/supplies and an ever-changing regulatory environment.

As always, the best rule of thumb is “when in doubt, ask,” and do not be afraid to explain why certain requirements, such as an onsite inspection, must be postponed because of COVID-19. As the project manager/owner, you will know what works in the best interest of your households, staff members and local community, and you are the best provider of information for those who need a more “boots on the ground” perspective.

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Ms. Dziak has an Associates of Applied Business – Accounting and a Bachelors of Business Management. She is HCCP, NCP, TaCCs certified and attends as well as speaks at industry conferences, LIHTC compliance training and seminars. She is currently a member of the HCCP Board of Governors.