

2025 Housing Matters!

Core Compliance & Updates

ILLINOIS HOUSING
DEVELOPMENT AUTHORITY

Session Workbook









Check it out while seats last!

www.costellocompliance.com/compliance-summit-2025



LA CANTERA Resort

16641 La Cantera Parkway San Antonio, TX 78256

October 2 & 3, 2025



Are you worried about your staff being able to absorb all the HOTMA changes? OR

Are you ready for an advanced LIHTC Comprehensive course and HCCP Exam? Watch for a new way to learn in manageable weekly pieces!

Click on the images or links below for more information

Achieve LIHTC Success! Comprehensive Course

Unique Hybrid Course! Online On-Demand and live Q&A Sessions



LINK | https://www.costellocompliance.com/lihtc-comprehensive-hybrid-hccp-exam

Achieve HOTMA Success! LIHTC, HOME, & NHTF Edition

Delivered using a revolutionary online approach that busy staff can easily absorb and apply each week! Includes live Q & A sessions with housing experts.



LINK | https://www.costellocompliance.com/HOTMA-Weekly-Training

Table of Contents

| INTRODUCTION AND HOTMA 2024 | 2 |
|--|----|
| History | |
| THE AVERAGE INCOME TEST [AIT] | |
| 8609 Line 8b The Multiple-BIN Election The Minimum Set-Aside | |
| Designating and Redesignating AIT Units | |
| The Average Income Test & The Applicable Fraction | 13 |
| Groups of Qualified Units | 14 |
| Timing of Qualified Group Selection | |
| The Effect of Noncompliance | 14 |
| THE LIHTC AVAILABLE UNIT RULE (AUR) | 16 |

Dig Deeper... For further information, see related posts on the Costello Housing Rules blog.

Enhanced Online Resources



Costello's blog dedicated to sharing knowledge that supports the housing industry's vital mission.

Articles | Videos | Q&As, Quizzes | costellocompliance.com/blog



https://www.costellocompliance.com/blog

1/01/2025

Three hundred posts since 2021! _____ HOTMA posts



Introduction and HOTMA 2024

History

In 1986 Congress enacted the Low-Income Housing Tax Credit Program, which provides incentives for private investment in affordable rental housing. The LIHTC or Tax Credit Program is governed by Section 42 of the Internal Revenue Code of 1986. Each state has a designated agency to allocate and administer tax credits for its state.

"IRS" Memory Aid To retain tax credits, an owner/agent must meet the following requirements:

| 1 | R | S |
|---|---|---|
| | | |

Circle it the element above affected by HOTMA.

Bonus! The above elements apply to almost all affordable housing. Only the details differ.

Knowledge Check Is It Nonrecurring Income?

HOTMA Implementation Notice | Example G1

Fill in each blank with "included in" or "excluded from."

Scenario A | Earned income ______ annual income.

Justin Clark worked for four months over the past year for a company that has since gone out of business.

During the Clark family's interview, the Owner asks Justin whether he expects to work for the company again in the coming year. Justin provides proof that the company went out of business.

Scenario B | Earned income annual income.

Ana Johnson works as an independent information technology (IT) contractor during various times of the year, when her clients require additional IT contract support. Ana believes that she will be contracted again the following year based on discussions with her clients.

Scenario C | Guaranteed Basic Income (GBI) ______ annual income.

Lucretia Jones reports at her upcoming annual reexamination effective on 5/1/24 that her GBI program will be ending on 1/31/25. The PHA/MFH Owner excludes this income because the programs will stop before the next annual reexamination on 5/1/25.

Scenario D | 2024 Research stipend _____ annual income.
2025 Research stipend annual income.

Lillian Gonzalez reports for a cert effective on 5/1/24 that she receives monthly payments for participation in a research project that is expected to last for 18 months and will end on 9/30/25.

HOTMA Highlight

Only the amounts *received* for alimony or child support are counted. The court-ordered amount is no longer a determining factor.



| 4 |
|---|
| |

Form Suggestions | Alimony and Child Support

Application form snippet

In the section that collects income information – delete questions, as below

Yes No

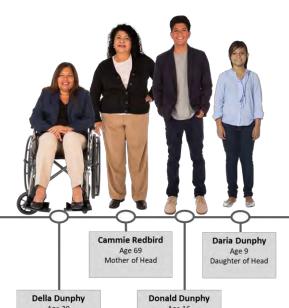
Are you receiving child support or alimony?

Have you ever been court-ordered to receive child support or alimony that you

are not receiving?

If "yes" are you pursuing the amounts you are not receiving?

2021 Flashback! | The Dunphys



Age 39 PETITIONER / PLAINTIFF: Della Dunphy CASE NUMBER: RESPONDENT / DEFENDANT: Marco Dunphy 120002012081u37 5/15/2020

DIVORCE AGREEMENT

12th District Court

Comes Before the court on this 15th day of May 2020, the PETITIONER, Della Dunphy, and the RESPONDENT, Marco Dunphy. Citing irreconcilable differences, the parties seek the dissolution of their marriage and to enter the following agreement.

1. FINANCIAL SUPPORT

Beginning June 1, 2020, The RESPONDENT will pay the PETITIONER \$400.00 per month for each of the minor children until later of the date they reach the age of 18 or graduate from high school. Additional alimony of \$400 a month will also be paid.

The RESPONDENT will pay for health insurance for both children until they attain the age of 26.

The following documentation is gathered about alimony and child support.

How was this calculated before HOTMA?

How about in the HOTMA er?

Exercise Cross out the items below that are no longer necessary.

Application for Occupancy Questionnaire

Income (cont)

Alimony/Child Support

| Have you ever been court ordered to receive alimony? | YES | NO | | |
|--|-----|----|----------|--|
| If "yes", court ordered amount: \$ 400 | | | | |
| Have you ever been court ordered to receive child support? | YES | NO | | |
| If "yes", court ordered amount: \$800 | | | | |
| Are your receiving the full ordered amount? | YES | NO | V | |
| Describe any efforts are you making to collect the | VES | NO | 1 | |

I am getting only child support for Dalia. My ex-husband refuses to pay for Donald after he refused to see his father more than the custody agreement requires. I am pursuing this amount through child support enforcement.

I am also not getting the alimony, but I do not want our difficulties to affect the kids, so I am letting that go for now.

Please list court or agency used to pursue ordered amounts:

Alimony

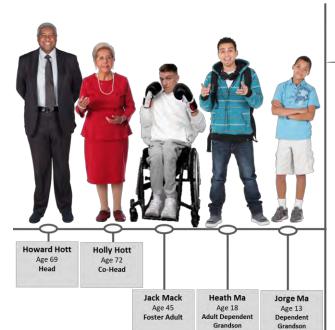
No efforts to collect.

Child Support

ordered amounts?

State child support enforcement. 432112 Government Way, Sample city. (800) 345-6789.

| | | | | Della Dunphy Marco Dunphy | CASE NUMBER: 120002012081u37 | 5/15/2020 |
|------------|---------------|------------|-----------|------------------------------|--|--|
| | | | | | | 7-09-2020 |
| | | Case Order | red amoun | t(s) \$ 400 \$ 400 | 120002012081u37-A 120002012081u37-B | The state of the s |
| Payment di | sbursement hi | istory | | | | |
| | Received | | Paid | Unpaid* | | |
| 6-01-20 | 400 | 6-02-20 | 400 | 400 | | |
| 7-01-20 | 400 | 7-02-20 | 400 | 400 | | |



Both Howard and Holly receive benefits from the Veteran's Administration. Howard is a Navy veteran and Holly is a widow of a veteran who passed many years previous.

How should these benefits be calculated?



DEPARTMENT OF VETERANS AFFAIRS 810 Vermont Ave NW Washington, D.C. 20420

March 13, 2025

Howard H Hott

1234 Golden Gates Way

Apt 101 Sample City, 00013

27/eBe

Dear Mr. Hott:

This letter certifies that Howard H Hott's receiving service-connected compensation from the Department of Veterans Affairs.

The current benefit paid is as follows:

 Gross Pension Amount
 \$2,300.00

 Net Amount Paid
 \$2,300.00

 Aid and Attendance Paid
 \$2,300.00

 Effective Date:
 December 1, 2024

Combined evaluation 100%

How You Can Contact Us

- If you need general information about benefits and eligibility, please visit us at https://www.ebenefits.va.gov or https://www.va.gov
- Call us at 1-800-555-1000. If you use a Telecommunications Device for the Deaf (TDD), the number is 711.
- Ask a question on the internet at https://iris.va.gov

Sincerely

JOHN PROUIX

John X. Prouix, Director Benefits Assistance Service



DEPARTMENT OF VETERANS AFFAIRS 810 Vermont Ave NW Washington, D.C. 20420

March 13, 2025

Holly H Hott

In Reply Refer to:

1234 Golden Gates Way

Apt 101

Sample City, 00013

In Reply Refer to: 27/eBenefits

Dear Ms. Hott:

This letter certifies that Holly H Hott's receiving service-connected survivor's compensation from

the Department of Veterans Affairs.

The current benefit paid is as follows:

Gross Survivors Pension Amount

 Gross Survivors Pension Amount
 \$1,478.00

 Net Amount Paid
 \$1,478.00

 Survivors Aid and Attendance Paid
 \$1,478.00

Effective Date: December 1, 2024

Combined evaluation 100%

How You Can Contact Us

- If you need general information about benefits and eligibility, please visit us at https://www.ebenefits.va.gov or https://www.ya.gov
- Call us at 1-800-555-1000. If you use a Telecommunications Device for the Deaf (TDD), the
 The Deaf (TDD) is 211.

 The
- Ask a question on the internet at https://iris.va.gov

Sincerely

JOHN PROUIX

John X. Prouix, Director Benefits Assistance Service



Heath is attending an institute of higher education. The following information is provided by Heath.

How should the student assistance be calculated?

To whom it may concern,

provide my nephew Heath Ma \$1,000 a year to help with his schooling expenses.

Let me know if I can provide any further help.

HETTY MA-SUMP Hetty Ma-Sump

Holly Hott Age 69 Age 72 Co-Head

Age 45

Jack Mack Foster Adult

University Office of Registrar Grant III Student Heath H Ma Student ID# Report Date 12/10/2024

14571829

Assistance

Pell Grant Period

12120.00 Annual

Expenses

Tuition Room Board

10000.00 [in-state resident discount rate] 6100.00 [in-state resident discount rate] N/A No meal plan applied for

Up Scale Lawn Let us help you up your landscaping game!

12/12/2024

Dear Mr. Heath Ma,

This is to inform you that you have been awarded the local resident scholarship that you applied for. As a local business that has served the Sample County area for 74 years, we sincerely hope that the financial assistance will greatly benefit you and our community and state for years to come. Details are below and in your scholarship application packet.

Annual assistance Term of assistance \$4,500.00 4 years

Sincerely,

David Hammond

David Hammond CEO | Up Scale Lawn

HOTMA Highlight



Checking account values is the current balance under HOTMA. This means that a statement dated within 120 days of the effective date can be used to verify the balance. If a tax refund or refundable credits was. 75% received in the last 12 months, that amount is subtracted from total net assets.

Knowledge Check

Income from Trust Under Control of Household

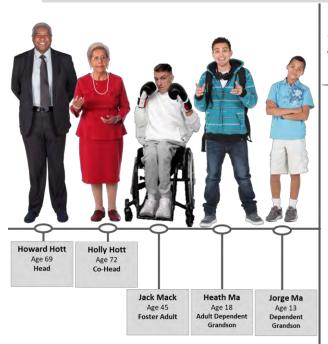
A family receives monthly payments from a trust to which they have access. A verification is sent to the administrator of the trust, and the following components of the payments are established.

Total monthly payments \$ 950 Distribution of principle 200 Trust income 750 Trust full value \$ 380,000 Trust income rate 1.7%

Note: \$50 of the distributions cover the health and medical care of a child of the head of the household.

How much of the monthly distribution is counted as income? [circle one]

c) \$200 d) \$700 e) \$750



A trust was set up for Heath and Jorge from their deceased father's life insurance payout. It is a revocable trust that is in control of an uncle until they reach age 40 and 35. The trust does not generate a statement that the household can supply. A verification form is sent to the trustee. It is returned as follows.

Does the trust represent income or an asset?

How will this show up on the certification?

Trust Verification

2.

| is this | s trust in the control of the household (can they cash it in, or adjust it?) NO 🔀 [go to 1 below] YES 🔝 [go to 2 below] |
|---------------|---|
| | If above is "NO," is the household receiving any distributions from the trust? NO [sign form and return] YES Complete A-D |
| 2, 1 | \$ 90.00 Amount of distributions that are used to pay the costs of health & medical expenses for a minor child, f the above is "YES" \$234,000.00 Market value of the trust \$234,000.00 Cash value of the trust \$5,875.63 Amount of income earned annually by the trust (whether distributed or not) |
| <u>/</u> N | MAX MILLER Signature MAX MILLER ASSET ASSESSMENT SPECIALIST Name Title BIZOOKSIDE ASSET MANAGEMENT SETZVICES |
| | Form Suggestions Trust Accounts |
| | Verification form snippet (for Trust Administrators) |
| Is this tru | ist in the control of the household (can they cash it in, or adjust it?) NO [[go to 1 below] YES [[go to 2 below] |
| 1. If ab | ove is "NO," is the household receiving any distributions from the trust? NO [sign form and return] YES [complete A-D below, sign and return]. Amount of distributions [A] |
| | Amount of distributions that is from the principal or corpus of the trust [B] Amount of distributions that are distributions of income from the trust [C] [B + C should = A] |
| . If the | Amount of distributions that are used to pay the costs of health & medical expenses for a minor child. above is "YES" Market value of the trust Cash value of the trust Amount of income earned annually by the trust (whether distributed or not) |
| | , and are of medice carried annually by the dust (whether distributed of not) |

HOTMA Highlight

Many retirement accounts will not be assets after HOTMA takes effect. The value of any account under a *retirement plan recognized as such by the Internal Revenue Service*, including individual retirement arrangements (IRAs), employer retirement plans, and retirement plans for self-employed individuals (including accounts previously referred to as KEOGH accounts). Periodic withdrawals will be counted as income, as was true prior to HOTMA.

Example

Imputed Asset Income | NNPP Doesn't but Net Assets Do Exceed Threshold

A family reports the following assets. The passbook savings rate that year was 0.40%. The family did not have a tax return in the last 12 months. Complete the asset section of the TIC.

| value | Type of asset |
|---|--------------------------|
| 2,300 no income, worn daily 2,400 with 0% interest 330,090 with 1.5% interest | |
| | 2,400 with 0% interest |

| HH Mbr | (F) (G) | (H) | (1) | (1) | |
|--------|-----------------------------------|----------------------|-----|--------------------------------|--|
| # | Type of Asset C/D | Cash Value of Assets | A/I | Annual Income from Assets | |
| | | \$ | | \$ | |
| | | \$ | | \$ | |
| | | \$ | | \$ | |
| | | \$ | | \$ | |
| | | \$ | - | \$ | |
| | (K) TOTALS: | \$ | (L) | \$ | |
| | (M) Current Passbook savings rate | % | | (L) Total Actual/Imputed Incom | |

Example

Imputed Asset Income | NNPP and Net Assets Do Not Exceed Threshold A family reports the following assets. The passbook savings rate that year was 0.60%. The family had a tax return in the last 12 months of \$960 that went into their checking account.

Complete the asset section of the TIC.

| Asset | Value | Type of asset |
|--------------------|--------------------------------|---------------|
| Checking account | \$ 2,400 0% interest | |
| Boat | \$12,901 no income | |
| A new game console | \$ 670 no income | |
| Stocks | \$ 8,798 paying no dividends | |

(M) Current Passbook savings rate

| HH Mbr | (F) | (G) | (H) | (1) | (J) |
|--------|---------------|-------------|----------------------|-----|---------------------------|
| # | Type of Asset | C/D | Cash Value of Assets | A/I | Annual Income from Assets |
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| 2 10 | | | \$ | | \$ |
| | | (K) TOTALS: | \$ | (L) | \$ |

(L) Total Actual/Imputed Income

Example

Imputed Asset Income | NNPP and Net Assets Exceed Threshold
A family reports the following assets. The passbook savings rate that year was
0.10%. The family had a tax return in the last 12 months of \$1,202 that went into their checking accounts.

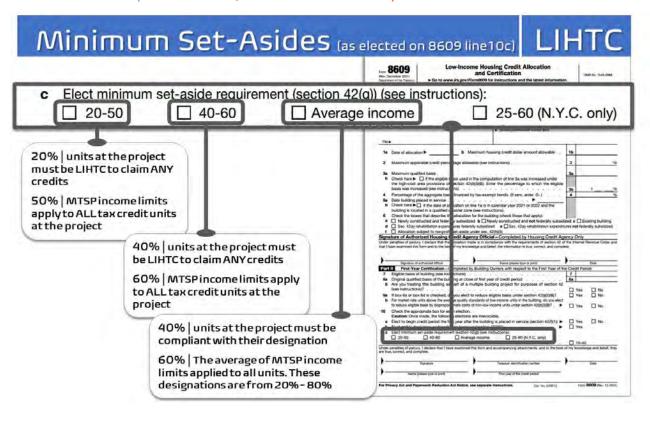
Complete the asset section of the TIC.

| Asset | Value | Type of asset |
|------------------|------------------------------|---------------|
| Ski Equipment | \$ 16,009 no income | |
| Checking account | \$ 940 0% interest | |
| Savings account | \$ 22,000 1.1% interest | |
| Savings bonds | \$ 45,896 2% interest | |
| IRA account | \$125,000 no withdrawals | |
| Real estate | \$ 33,814 no rental income | |

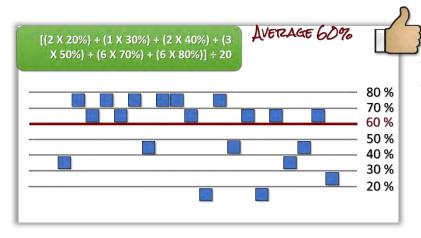
| HH Mbr # | (F) Type of Asset | (G) C/D | (H) Cash Value of Assets | (I) A/I | (J) Annual Income from Assets |
|-------------|----------------------|--------------------------|-----------------------------|------------|----------------------------------|
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| | | | \$ | | \$ |
| | | (K) TOTALS: | \$ | (L) | \$ |
| | (M) Curre | nt Passbook savings rate | % | | (L) Total Actual/Imputed Incom |

The Average Income Test (AIT)

8609 Line 8b | The Multiple-BIN Election | The Minimum Set-Aside



Now, a project mix could look like this...



This adds a level of complexity to the federal rules. However, increasing our qualified renter pool and perhaps rents has clear benefits for our properties and communities at large.



Examples

Minimum Set-Asides

Minimum Set Aside Election

20-50

| LIHTC | 50% | LIHTC | 50% | LIHTC | 50% | LIHTC | 50% | Market |
|-------|-----|-------|-----|-------|-----|-------|-----|--------|
| LIHTC | 50% | LIHTC | 50% | LIHTC | 50% | LIHTC | 50% | Market |

20-50 Minimum Set Aside Analysis (Single-Building Project)

- · At least 20% of the units (2 units) are at 50% limits
- 8 out of 10 units are additionally at 50%
 - · These units are eligible for tax credits.

Minimum Set Aside Election

40-60

| LIHTC | | LIHTC | | LIHTC | | LIHTC | | Market |
|-------|-----|-------|-----|-------|-----|-------|-----|--------|
| | 60% | | 60% | | 60% | | 60% | |
| LIHTC | | LIHTC | | LIHTC | | LIHTC | | Market |
| | 60% | | 60% | | 60% | | 60% | |

40-60 Minimum Set Aside Analysis (Single-Building Project)

- At least 40% of the units (4 units) are at 60% limits
- 8 out of 10 units are additionally at 60%
 - These units are eligible for tax credits.

Minimum Set Aside Election

$\Delta \Box$

| | LIHTC | | LIHTC | | LIHTC | | LIHTC | | Market |
|---|-------|-----|-------|-----|-------|-----|-------|-----|--------|
| | | 50% | | 80% | | 70% | | 70% | |
| | LIHTC | | LIHTC | | LIHTC | | LIHTC | | Market |
| I | | 40% | | 30% | | 70% | | 50% | |

AIT Minimum Set Aside Analysis (Single-Building Project)

- At least 40% of the units average 60% or less and the Average Income Test minimum set aside is met
 - For example [1x30%] + [3x70%] ÷ 4 = 60%
- 8 out of 10 units are additionally designated to average no more than 60%
 - [1x30%] + [1x40%] + [2x50%] + [3x70%] + [1x80%] ÷ 8 = 57.6%
 - · These units are eligible for tax credits.



Designating and Redesignating AIT Units

For AIT projects existing as of Dec. 31, 2022, occupied LIHTC units are designated under the new rule on Jan. 1, 2023. For vacant units and for future AIT projects, a unit is designated before the move-in of a low-income household.

A unit is "designated" when an owner records their books and records the designation and communicates this to the state. How the states want designations communicated can vary by state.

Redesignation of Units

The AIT rule allows changes to designations in the following circumstances.

- 1. As the IRS permits. If permission for the change is contained in IRS forms, instructions, or guidance published in the Internal Revenue Bulletin.
- 2. As the state HFA permits. When the Agency with jurisdiction of the project has issued public written guidance that provides conditions for a permitted change that applies to all AIT projects under the jurisdiction of the Agency, such changes are permissible.
- **3. As appropriate to other laws.** A change in designation is permissible when the change is required or appropriate to enhance protections contained in the following laws.
 - o The Americans with Disabilities Act (ADA)
 - The Fair Housing Act (FHA)
 - o The Violence Against Women Act (VAWA)
 - The Rehabilitation Act of 1973 (Section 504)
 - o Any other State, Federal, or local law or program that protects tenants and that is identified by the IRS or the state HFA, as covered above.
- 4. As households transfer. If a current income-qualified tenant moves to a different unit in the project, the unit to which the tenant moves has its imputed income designation changed to the limitation of the unit from which the tenant is moving; and the vacated unit takes on the prior limitation of the tenant's new unit.
- 5. To address issues with the AIT-qualified groups. When the average is out of compliance with the minimum set-aside or the applicable fraction, redesignation may be allowed. This is limited to newly designated, or redesignated, units that are vacant or are occupied by a tenant that would satisfy new, lower imputed income limitation.

The Average Income Test & The Applicable Fraction

Compare and contrast: the minimum set aside v the applicable fraction(s)

The minimum set aside...

- ...determines the MINIMUM requirements for claiming any credits at all.
- ...is determined across a project, including multiple buildings, if applicable.
- ...uses units without regard to unit size.

The applicable fraction...

- ...determines the actual tax credits claimed for buildings.
- ...is determined for **each building** in a project.
- ...uses the lower of a unit and square footage calculation.



Groups of Qualified Units

Treas. Reg. 1.42-19 (b)(3)

Owners of LIHTC properties are required for each taxable year to select a qualified group of units to meet the minimum set aside and may also add units to include in a qualified group of units to include in the total count of tax credit units for the project. Both groups must average no more than 60%.

This is different than the other minimum set asides in that the units that can be included in the qualified group for the minimum set aside must be explicitly selected. Selection of this group must be made carefully. A plan can minimize the impact if units in this group are lost to noncompliance. For instance, the owner will likely select more than 40% of the units to ensure that at least 40% remain in the sample if some need to be removed. Additionally, the units selected are likely to include as many of the units designated 60% or less. Thus, even if multiple units need to be removed, the average never exceeds 60%.

The group of qualified units that can be included in the applicable fraction may also be affected by noncompliant units. Once the unit is removed, if the average exceeds 60%, additional units may also have to be removed, and credits not claimed on those units, to restore the average.

Timing of Qualified Group Selection

The groups for each year must be selected during or shortly after the taxable year, perhaps at the time of annual reporting to the state Agency. This allows for redesignation for any of the allowed reasons listed in the AIT regulation during the year.

Treas. Reg. 1.42-19T

If a problem is discovered in a later year with the designations, the regulation allows for correction and communication of the corrected designations to the state Agency if the correction is done within 180 days of the discovery of the issue by the owner or the state Agency.

Note: This is on a case-by-case basis, so state Agency policy will be important here.

The Effect of Noncompliance

Using the above scenario, if the **40% unit** in the first building **is lost to noncompliance**, the owner will do the following analyses.

1. Minimum Set-Aside Analysis

- 8 units remain in compliance in the minimum set aside qualified group. This is 40% of the total project units and meets this part of the test.
- The average remains at or below 60%.

$$[5x60\%] + [1x40\%] + [2x30\%] \div 8 = 50\%$$

NOTE | because all units selected for the minimum set aside were 60% or less, the percentage will always be compliant, if the first part of the test (the 40% minimum) is met.

Conclusion | As at least 40% of the units in the project are in a group that averages no more than 60%, the project **continues to be eligible to claim tax credits.**

2. Applicable Fraction Analysis

The lost unit affects the average of the group selected for the qualified group to determine the applicable fractions.

$$[4x80\%] + [2x70\%] + [5x60\%] + [1x40\%] + [2x30\%] \div 14 = 61.4\%$$



Conclusion | The lost unit puts the group that determines the applicable fraction units over the 60% average. A mitigation action may need to be taken, or additional units removed from the qualified group to restore the average to 60%.

Possible corrective actions may include:

1. Renting a vacant market unit to a 40% household restores the project qualified group average to 60% including the new LIHTC unit.

$$[4x80\%] + [2x70\%] + [5x60\%] + [2x40\%] + [2x30\%] \div 15 = 60\%$$

NOTE | Doing so in the same building, if possible, also preserves the applicable fraction for that building.

- 2. If any of the higher designated units are occupied by a household that is qualified for redesignation, this may restore the average. This could be because they qualified for the lower designation at move-in, or they have had a decrease in income and now qualify. Because this project is less than 100% LIHTC, the owner will be aware of incomes based on annual recertifications.
- **3.** If the compliance issue was income qualification, and the noncompliant unit qualifies for a higher designation, redesignation may help address the matter. For example, if the noncompliant household in the 40% unit qualifies for a 50% designation, the average is as follows.

$$[4x80\%] + [2x70\%] + [5x60\%] + [1x50\%] + [1x40\%] + [2x30\%] \div 15 = 60.7\%$$

However...

NOTE | This does not fully restore the average, but it decreases the differential and may provide more options to address the problem as units are vacated or other households qualify for redesignation.

4. As a last resort, taking an 80% unit out of the group of qualified units and not claiming credits on that unit restores the average to 60%.

$$[3x80\%] + [2x70\%] + [5x60\%] + [1x40\%] + [2x30\%] \div 13 = 60\%$$

NOTE | because no 80% units were chosen for the minimum set aside group of qualified units, this will not affect the minimum set aside. However, it will decrease the applicable fraction for the building the removed 80% unit is in.



The LIHTC Available Unit Rule (AUR)

§42 (g)(2)(D), Treas. Reg. 1.42-15 & 8823 Guide 14-1 & 5

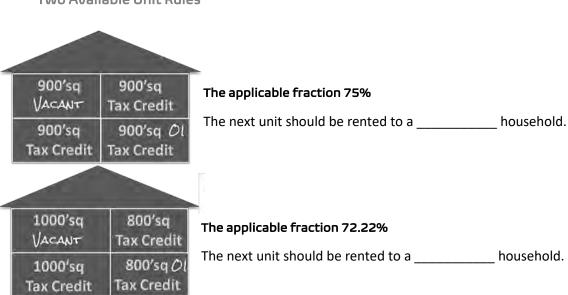
The Available Unit Rule is also known as the "Next Available Unit Rule" (NAUR) or "140% Rule." The rule works in two different ways, depending on if the property is 100% tax credit or not.

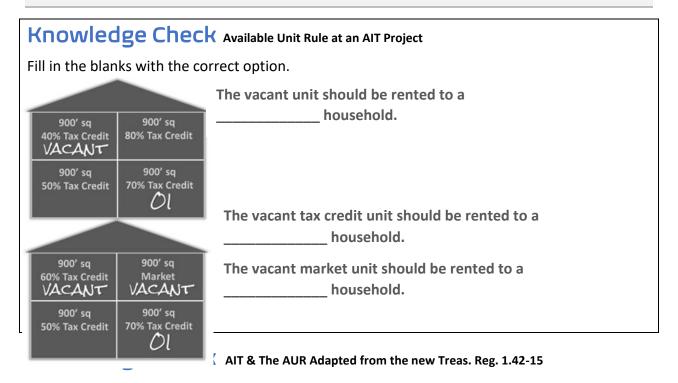
For **100%** tax projects, owner/agents need to demonstrate due diligence when moving in all households to make sure that all available units are rented to qualified households. If an ineligible family is moved in and it cannot be demonstrated that due diligence measures were in place, the AUR is violated.

For **projects with non-tax credit units**, if a household's income increases at recertification to over 140% of the current qualifying income limit, they become "over-income." The unit can continue to support tax credits if the *next available unit of equal or smaller size* that becomes available in the same building is rented to a qualified household. This must continue until the applicable fraction is restored, not counting the over-income household. In the meantime, all over-income units must remain rent-restricted until the applicable fraction is restored. If the rule is violated, all comparable or smaller over-income units fall out of the applicable fraction and the minimum set aside. A unit is no longer considered "available" for this rule if a legally binding agreement is in place, such as a reservation binder or lease.

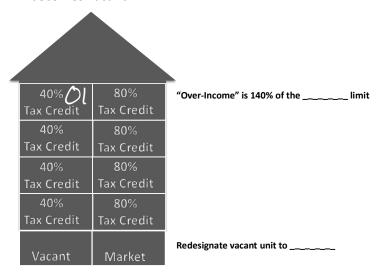
Knowledge Check

Two Available Unit Rules





1. A one-building project where all units are the same size has the following designations assigned, including two market units. A 40% unit goes over income at recertification. Then a *market* unit becomes vacant.



2. Later an 80% unit goes over income at recertification. Then the other *market* unit becomes vacant.

| 40% () | 80% <equation-block> l Tax Credit</equation-block> | "Over-Income" is 140% of the limit |
|----------------------|--|------------------------------------|
| Tax Credit 40% | 80% | |
| Tax Credit | Tax Credit | |
| 40% | 80% | |
| Tax Credit | Tax Credit | |
| 40% | 80% | |
| Tax Credit | Tax Credit | |
| 40% | | Redesignate vacant unit to |
| Vacant | Vacant | |
| 40% Ol Tax Credit | 80% Ol Tax Credit | |
| 40% | 80% | |
| Tax Credit | Tax Credit | |
| 40% | 80% | |
| Tax Credit | Tax Credit | |
| 400/ | 900/ | |

Rent which vacant unit first?_

Tax Credit

40%

Vacant

Tax Credit

80%

Vacant