Housing Tax Credits
Procedures for Projects Financed with Tax-exempt Volume Limited Bonds

In Minnesota, Minnesota Management and Budget (MMB) is the primary apportionment agency for allocation of the authority to issue, pursuant to federal tax law, tax-exempt volume limited bonds. Minnesota Housing and some local units of government receive a set-aside of the authority to allocate tax-exempt volume limited bonding authority to finance qualified developments. For information on application dates and procedures for tax-exempt volume limited bonding authority from MMB, contact MMB directly.

Section 42 of the Internal Revenue Code (IRC) establishes that 4% housing tax credits may be available under certain circumstances for projects that receive an allocation of tax-exempt volume limited bonding authority. The issuance of this class of tax credit is not counted as part of the tax credit volume cap for the state of Minnesota. Developers of projects expected to be financed with tax-exempt volume limited bonds seeking available tax credits for the project should be guided by the summary of requirements listed below.

Developers proposing projects within Minnesota Housing's jurisdiction should be aware of the information contained in Article 8 of the state of Minnesota Housing Tax Credit Qualified Allocation Plan (QAP). An explanation of the award process for 4% housing tax credits associated with projects financed with tax-exempt volume limited bonds can be found in the QAP and in Minnesota Housing's Housing Tax Credit (HTC) Procedural Manual. Developers of projects outside of Minnesota Housing's jurisdiction should be aware of the information published in the applicable suballocator's QAP.

When Minnesota Housing is the housing credit agency, it will evaluate whether the development complies with the applicable year's QAP, including whether the development is financially feasible as required by Section 42 of the IRC. If Minnesota Housing is not the issuer of the tax-exempt volume limited bonds, the issuer must provide a letter to Minnesota Housing under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

The following is a summary of the tax credit review requirements:

- **If tax-exempt bonds are issued by Minnesota Housing**
  Minnesota Housing will be the housing credit agency and will evaluate whether the development complies with Minnesota Housing's QAP, including whether the development is financially feasible as required by Section 42 of the IRC, regardless of where the project is located, including projects located in the jurisdiction of a suballocator.

- **If tax-exempt bonds are issued by a suballocator**
  The suballocator will be the housing credit agency and will perform the tax credit review pursuant to the suballocator's QAP if the project is in their jurisdiction.

- **If tax-exempt bonds are issued by a county for a project located within the jurisdiction of a suballocator**
  The suballocator will be the housing credit agency and will perform the tax credit review pursuant to the suballocator's QAP. For tax-exempt bonds issued by Hennepin County for projects in Minneapolis or for tax-exempt bonds issued by Ramsey County for projects in Saint Paul, the Minneapolis/Saint Paul Housing Finance Board must provide a letter under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

- **If tax-exempt bonds are issued by a city or county and the project is located outside of the jurisdiction of a suballocator**
  Minnesota Housing will be the housing credit agency and will evaluate whether the development complies with the applicable year's QAP, including whether the development is financially feasible as required by Section 42 of the IRC. The issuer must provide a letter under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

- **If tax-exempt bonds are issued in a jurisdiction of a suballocator that has a Joint Powers Agreement with Minnesota Housing**
  To the extent provided for in the Joint Powers Suballocator Agreement, Minnesota Housing will be the housing credit agency and will evaluate whether the development complies with the applicable year's QAP, including whether the development is financially feasible as required by Section 42 of the IRC. The issuer must provide a letter under Section 42(m)(2)(D) certifying that it made a similar financial feasibility determination.

When Minnesota Housing is the housing credit agency, the development must comply with Minnesota Housing's QAP that is in effect for the calendar year in which the tax-exempt volume limited bonds, in an amount sufficient to qualify the development for tax credits, were first issued.

IRC Section 42(b)(1) and Treasury Regulations Section 1.42-8(b) address the applicable percentage and how the appropriate percentage month is established. It is very important to elect the appropriate percentage month and the related applicable percentage, and then properly report and document these actions to the appropriate housing tax credit agency. It is the taxpayer's responsibility to be aware of the related IRC and Treasury regulation requirements and to make the elections and reporting in the time and manner prescribed.