

**IRS Notice 2021-12
Coronavirus Guidance for Housing Tax Credit and Tax-Exempt Bond Developments**

On July 1, 2020, the Internal Revenue Service (IRS) published [Notice 2020-53](#) providing temporary relief to owners and residents of Housing Tax Credit (HTC) and tax-exempt bond financed developments in response to the COVID-19 pandemic. On January 15, 2021, the IRS issued [Notice 2021-12](#) which extends all COVID-19 relief measures originally provided under Notice 2020-53 and provides further relief not included in the original notice.

The provisions of Notice 2021-12 that affect HTC compliance and monitoring are:

- Building owners are not required to perform income recertifications for the period beginning April 1, 2020 and ending September 30, 2021.
- State Housing Credit agencies are not required to conduct compliance monitoring inspections or reviews for the period beginning April 1, 2020 and ending September 30, 2021 (agencies must resume compliance monitoring inspections no later than October 1, 2021).
- The temporary closure of property amenities and common space facilities from April 1, 2020 through September 30, 2021, in response to the COVID-19 pandemic will not negatively impact a property’s eligible basis.
- Housing Tax Credit properties may be used temporarily to provide emergency housing for medical personnel and other essential workers providing services during the COVID-19 pandemic regardless of income eligibility in accordance with the emergency housing provisions of IRS Revenue Procedures 2014-49 and 2014-50.
- If a correction period set by the agency ends on or after April 1, 2020 and before September 30, 2021, at the agency’s discretion the correction period may be extended by a year, but not beyond December 31, 2021.

Please see the following **Frequently Asked Questions (FAQs)** that show how Minnesota Housing is implementing these compliance relief provisions:

Annual Income Recertification Relief

- **Do these notices suspend new initial household certifications or just the annual recertifications (mixed-income projects)?**

The relief is only for annual income recertification, not the initial income certification. Initial certifications still must be completed as required. Since 100% HTC projects are not required to complete annual income recertifications, the relief applies only to mixed-income properties and any units needing to satisfy tax-exempt bond requirements. This relief only applies to HTC and bond income recertifications. Owners must comply with other applicable program recertification requirements and related relief guidance, if any.

- **Is document collection and verification of supporting documentation still required even if a certification is not?**

No. Since there is no income recertification required, there is no requirement to obtain supporting documentation including the Household Questionnaire or verification of income and/or assets.

- **Does the annual income recertification relief also include the requirement to recertify student status?**

No. The Notice only relieves the owner from performing an annual income recertification which is used to determine whether the Available Unit Rule is triggered. Owners are still required to recertify student status. Failure to recertify student status for projects in the 15-year compliance period is subject to reporting to IRS on form 8823.

- **Will any tenant files not recertified between 4/1/2020 and 9/30/2021 be required to be certified retroactively during 2021?**

No. The IRS clarified that owners will not be required to retroactively recertify 2020 income under Notice 2020-53. Unless Minnesota Housing receives information to the contrary from IRS, we will treat the recertification relief in Notice 2021-12 the same as Notice 2020-53.

- **When will the next income recertification be due?**

For annual income recertifications due between 4/1/2020 and 9/30/2020, the next income recertification must be completed on or before the second anniversary of when it should have been done. For example: if an initial certification has an effective date of 9/1/2020, the next recertification must be completed on or before 9/1/2022. Owners must complete all income recertifications due on or after 10/1/2021. For example: if an initial certification has an effective date of 10/1/2020, the annual recertification must be completed on or before 10/1/2021.

- **Does the income recertification relief apply to properties in the extended use period?**

Yes.

- **How should owners report continuing compliance on the annual owner certification for compliance years 2020 and 2021 and how should occupancy data be reported?**

The annual owner certification uses the term “where applicable” in reference to completing annual income recertifications. Therefore, if the owner follows the guidance in the Notice and in these FAQs, it may certify in its annual owner certification for 2020 (due February 2021) and 2021 (due February 2022) that it has complied with the annual income recertification requirement. A recertification event must be reported in PORT, but owners/agents can select “Yes” to indicate the household is exempt from reporting income at recertification.

- **Does this guidance apply to properties financed with Section 1602?**

The Treasury Department clarified that the guidance in Notice 2020-53 applied to Section 1602 for 2020. Unless Minnesota Housing receives information to the contrary from the Treasury Department, we will treat the relief in Notice 2021-12 the same as Notice 2020-53.

- **Can owners continue to perform annual income recertifications if they want to?**

Yes. Owners are not required to exercise this relief and are permitted to continue completing income recertifications.

Inspection Relief

- **Will Minnesota Housing perform HTC and Section 1602 inspections in 2021?**

Yes. Minnesota Housing completed remote inspections in 2020 and will continue to do so for any property that is due to have an inspection in 2021. The remote inspection includes review of administrative records and tenant file reviews. On-site Uniform Physical Conditions Standards (UPCS) inspections will not be conducted until further notice.

- **Will Minnesota Housing perform 2021 UPCS after 9/30/2021?**

It is unclear at this time whether Minnesota Housing will be required to conduct all 2021 UPCS inspections after September 30, 2021 but before December 31, 2021. We are waiting for clarification from the IRS. As usual, owners must certify under penalty of perjury, as to whether each building is suitable for occupancy on the annual owner certification. Owners must also provide evidence of all corrections or a plan and timeline for when corrections will be made if there were uncorrected UPCS violations or violations of state and local habitability codes or local ordinances in any part of the property or if any units were out of service. Minnesota Housing will also follow-up, as required, on maintenance issues or physical condition concerns brought to Minnesota Housing’s attention by low-income housing tax credit (LIHTC) residents.

If a property is also due for a HOME or NHTF inspection, absent any further relief from HUD, Minnesota Housing must perform the physical inspection for HOME or NHTF after September 30, 2021.

- **Does this guidance apply to properties in the extended use period?**

Yes.

Common Areas and Amenities

- **If a property took COVID-19 related precautions prior to 4/1/2020 (examples: closure of the property’s community room prior to 4/1 or closed a property amenity prior to 4/1), will Minnesota Housing file form 8823 to report this noncompliance?**

Minnesota Housing will not file form 8823 if the closure was COVID-related. Regardless of when the closure occurred, owners should document which amenities or common areas were closed as well as when and why they were closed and maintain that documentation with the property’s administrative records. Owners should keep laundry facilities and computer rooms open whenever possible. It should be noted that not filing an 8823 does not guarantee that the credits are not affected. Owners should consult with their investor partner and tax advisor.

Emergency Housing Relief

- **Can owners provide emergency housing relief for medical or other essential workers?**

Minnesota Housing is not aware of a need to implement this relief provision at this time. Minnesota Housing will consider implementing later if it is determined that emergency medical or other essential workers must be relocated to care for COVID-19 patients and other housing options are limited or unavailable. Please contact your assigned Compliance Officer to discuss this provision if conditions at your property warrant the need for this relief.

Correction of Noncompliance

- **Will owners automatically be given more time to correct noncompliance?**

Owners will continue to be given an initial 30-day period to correct noncompliance (up to 90 days may be given for properties with complex compliance issues or large numbers of units out of compliance). Owners are already able to request an extension up to a total of 180 days with good cause. If an owner is unable to make corrections within the 180 days due to COVID-19 related issues or delays, an additional request for extension up to a total of 12 months, but not beyond December 31, 2021, may be submitted.

Questions?

Please contact [Renee Dickinson](#).



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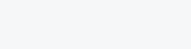
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