

# LIZ BRAMLET CONSULTING, LLC

CONSULTING FOR TODAY'S AFFORDABLE HOUSING

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## FREQUENTLY ASKED QUESTIONS ACQUISITION/REHAB LIHTC PROPERTIES

**Question One** - How soon can I begin to generate tax credits at my acquisition/rehab project?

### **Answer One**

An owner's 10-year credit period must be the same for both the acquisition and rehab credits. You must complete a building's rehab activities to calculate its eligible basis for the rehab credits to begin its credit period. You decide when you can begin to generate credits building by building.

- If you place a building's rehab credits in service the year you acquire it, you can begin its credit period the same year.
- If you place a building's rehab credits in service the year following acquisition, you can begin its credit period the year you place the rehab in service.

**Question Two** - When should I do the initial tenant income certifications for the existing residents at my acquisition/rehab tax credit property?

### **Answer Two**

For each building you must know when you plan to finish its rehab activities.

- If you finish a building's rehab the same year you acquire it, units occupied by residents you qualify for the LIHTC program can begin to generate credits at acquisition. The IRS says an owner may complete a resident's initial income certification within 120 days of acquiring the building and make it effective on the date of acquisition.
- If you finish a building's rehab the year following acquisition, units occupied by residents you qualify for the LIHTC program can begin to generate credits in January of the year you finish the rehab. Complete the initial income certifications within 120 days of when you plan to start the credit period. Don't forget to utilize the Safe Harbor Rule if you complete a resident's TIC more than 120 days before the start of their building's credit period.

**Question Three** - If I qualify a resident for the LIHTC program but they need to relocate so I can rehabilitate their unit, do I need to complete a new income certification prior to their relocation?

### **Answer Three**

No. The IRS tells us that when a resident you've qualified for the LIHTC program relocates to another unit at the same project so you can rehabilitate their unit, their income certification, including its effective date, moves with the resident to their new unit. For local legal reasons, you probably need to sign a new lease or lease addendum covering their residency in their new unit.

Remember that a resident relocates around the same project only if they transfer within the same building or to another building the owner plans to include in the same project per Line 8b of the building's 8609 form. If a resident relocates to a building to be included in a different project, the owner must complete a new tenant income certification for their new unit in their new building to produce an LIHTC.



**Question Four** – Are residents of a project being rehabilitated using the LIHTC program covered by the requirements of the Uniform Relocation Act (URA) of 1970?

**Answer Four**

Use of the LIHTC program itself does not trigger the requirements of the Uniform Relocation Act. However, the regulations for many of the other funding sources owners use to finance LIHTC projects do require an owner extend the existing residents the rights afforded under the URA. For example, an owner must implement the requirements of the URA when using funds awarded through the HOME program. A developer must analyze the financial structure for each deal to determine if they must implement the URA.

**Question Five** – How do I know when I'm ready to place a building's rehab credits in service?

**Answer Five**

To place a building's rehabilitation credits in service, you must have met the spending test to qualify for rehab credits. Under HERA 2008, an owner must spend the greater of \$6,000 per low income unit or 20 percent of the building's adjusted basis. Always check with your CPA on exactly how these calculations will be done for each of your buildings.

Most owners spend much more than the federal regulations require on rehabilitation activities. You are not ready to place your rehab in service until you know the eligible basis for your rehab credits will be sufficient to attract the capital contributions necessary from your investors. Remember that you can add to the eligible basis for your rehab credits after you place in service and until the end of the first year of the credit period.

**Question Six** – How do I calculate the applicable fraction for the first year of the credit period for the acquisition credits versus the rehab credits?

**Answer Six**

You calculate the applicable fraction the same for both sets of credits. Since the IRS issued the private letter ruling in 2000 explaining acquisition/rehab projects, we have understood that a building begins producing its acquisition and rehab credits in the same month and in the same year. For the first year of a building's credit period, you must calculate its applicable fraction on a monthly basis so you can determine the average applicable fraction for the year. The CPA needs to know a building's average applicable fraction for year one to determine the credit the investors may take on their year one tax return and how large a credit they must wait and take in year 11.