Rocky Mountain AHMA
43rd Annual Conference

September 25-26, 2025

**Basics of LIHTC Compliance**

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## Learning Objectives

- By the end of this session, you will be able to:
  - Understand how the LIHTC program works.
  - Explain household eligibility rules.
  - Calculate rent limits using income limits and utility allowances.
  - Recognize file compliance and monitoring requirements.

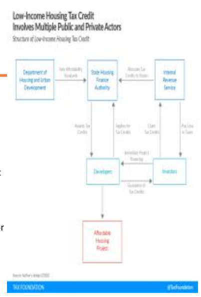
## LIHTC Overview

# What is LIHTC?

- Low-Income Housing Tax Credit (LIHTC) = federal government's **primary tool** for producing affordable rental housing.
- ❖ **Created by:** Tax Reform Act of 1986.
- ❖ **Administered by:** IRS → allocated to states via Housing Finance Agencies (HFAs).
- ❖ **How it works:** Developers receive credits → attract private investors → build/rehab affordable housing.
- ❖ **Affordability:** Units must remain income- & rent-restricted for **30 years or longer**.
- ❖ **Impact:** Over **3 million affordable homes financed nationwide**.

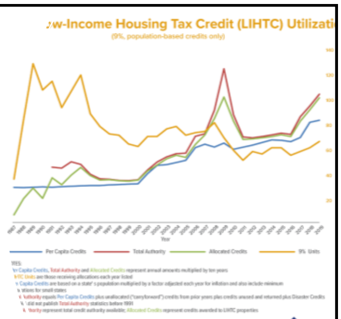
# LIHTC Program Flow

1. **IRS**
   - Administers the Low-Income Housing Tax Credit at the federal level.
   - Allocates tax credits annually to each state based on population.
2. **State Housing Finance Agency (HFA)**
   - Receives the credits from IRS.
   - Runs a **Qualified Allocation Plan (QAP)** to award credits to projects that meet housing priorities.
3. **Developer/Owner**
   - Applies for credits through the state HFA.
   - Uses credits to attract **private investors** who provide equity for construction or rehabilitation.
4. **Affordable Units**
   - Properties must set aside a portion of units for **low-income households**.
   - Rents are restricted and affordability is maintained for at least **30 years**.




# Compliance Period

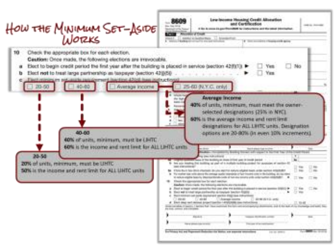
- **Credit Period:** Investors claim credits annually over **10 years**.
- **Compliance Period:** Property must remain affordable for **15 years**.
- **Extended Use:** Most states require **30+ years** of affordability beyond the initial 15 years.
- **Owner Responsibility:** Noncompliance during 15 years may result in **recapture of credits**.
- **Monitoring:** HFAs conduct ongoing compliance monitoring (file reviews + inspections).



## Eligibility Rules

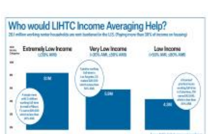

## Minimum Set-Aside Elections

- **20/50 Test:** At least 20% of units restricted to ≤ 50% AMI households.
- **40/60 Test:** At least 40% of units restricted to ≤ 60% AMI households.
- **Income Averaging (if allowed):** Units designated between 20%–80% AMI, average must be ≤ 60% AMI.
- **Election is irrevocable** once project is placed in service.




## Income Limits

- Published annually by HUD.
- Based on Area Median Income (AMI).
- Varies by household size and county/metro area.



## Student Rule

- Households composed entirely of full-time students are **not eligible**.
- Exceptions (household eligible if):
  - Married and filing jointly.
  - Single parent w/ dependent child.
  - Receiving TANF, Title IV, or job training assistance.
  - Participating in job training program receiving assistance.
- **Purpose:** Prevent dorm-style occupancy.


## Application Requirements

- **Application Form:** Completed and signed by all adult household members.
- **Household Information:** Full disclosure of all household members, relationships, and student status.
- **Income & Assets:**
- Report all sources of income for each household member.
- Disclose all assets, including bank accounts, retirement funds, property, etc.
- **Verification:** Third-party verification required for income, assets, and student status (per HUD/IRS rules).
- **Documentation:** All verifications must be dated within **120 days** of the effective date of the TIC.
- **Certification:** Household must complete and sign the **Tenant Income Certification (TIC)** after verification.


APPLICATION for LOW INCOME HOUSING TAX CREDIT (LIHTC) PROPERTY

## Mini Scenario

**Household:** 3 people, $53,000 income.
**60% AMI limit** = $52,500.
**Question:** Eligible or not?

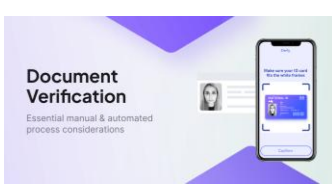
## Income & Rent Determination


## Household Income

- Count: wages, Social Security, pensions, unemployment, regular contributions.
- Exclude: foster payments, SNAP, WIC, certain lump sums.
- Use **anticipated income** for next 12 months.


## Verification

- Third-party preferred.
- Acceptable docs: pay stubs, benefit letters, tax returns.
- Must be dated within 120 days of move-in and/or annual recertification

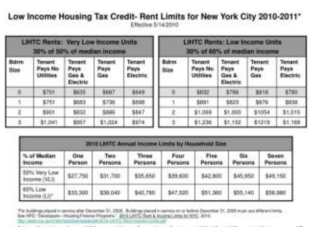


## Rent Restrictions

- **Gross Rent Limit:** Published annually by HUD (based on AMI).
- Based on **imputed HH size** (1.5 persons per bedroom).
- Rent charged = Gross Rent Limit – Utility Allowance.
- Rent not tied to tenant's actual income.


## Example Rent Calculation

- 2-BR, 60% AMI limit = $1,200.
- UA = $150.
- Max tenant rent = **$1,050**.
- If tenant's TTP < $1,050 → charge lower.
- If subsidy (voucher) applies, total rent may exceed LIHTC limit, but **tenant portion must stay ≤ LIHTC cap**.



**Low Income Housing Tax Credit- Rent Limits for New York City 2010-2011***

Effective 5/14/2010

| LIHTC Rents: Very Low Income Units 30% of 50% of median income | | | | |
|---|---|---|---|---|
| Bdrm Size | Tenant Pays No Utilities | Tenant Pays Gas & Electric | Tenant Pays Gas | Tenant Pays Electric |
| 0 | $701 | $635 | $687 | $649 |
| 1 | $751 | $683 | $736 | $698 |
| 2 | $901 | $832 | $886 | $847 |
| 3 | $1,041 | $957 | $1,024 | $974 |

| LIHTC Rents: Low Income Units 30% of 60% of median income | | | | |
|---|---|---|---|---|
| Bdrm Size | Tenant Pays No Utilities | Tenant Pays Gas & Electric | Tenant Pays Gas | Tenant Pays Electric |
| 0 | $832 | $766 | $818 | $780 |
| 1 | $891 | $823 | $876 | $838 |
| 2 | $1,069 | $1,000 | $1054 | $1,015 |
| 3 | $1,236 | $1,152 | $1219 | $1,169 |

| 2010 LIHTC Annual Income Limits by Household Size | | | | | | | |
|---|---|---|---|---|---|---|---|
| % of Median Income | One Person | Two Persons | Three Persons | Four Persons | Five Persons | Six Persons | Seven Persons |
| 50% Very Low Income (VLI) | $27,750 | $31,700 | $35,650 | $39,600 | $42,800 | $45,950 | $49,150 |
| 60% Low Income (LI)* | $33,300 | $38,040 | $42,780 | $47,520 | $51,360 | $55,140 | $58,980 |

*For buildings placed in service after December 31, 2008. Buildings placed in service on or before December 31, 2008 must use different limits. See HPD: "Developers—Housing Finance Programs." 2010 LIHTC Rent & Income Limits for NYC. 2010.

Division of Special Needs Housing, NYC Department of Housing Preservation and Development, 100 Gold Street, NYC July 2011 19

## Compliance & Monitoring

CITY OF BERKELEY LAND USE PLANNING

**AFFORDABLE HOUSING COMPLIANCE PLAN**

**Affordable Housing Requirements**

BERKELEY MUNICIPAL CODE CHAPTER 23.328

A. Requirement to construct BMR units on-site
B. Option to pay an In-Lieu Fee
C. Combination of on-site BMR units and In-Lieu Fee
D. Other options allowed by the Chapter

A. REQUIREMENT TO CONSTRUCT AFFORDABLE UNITS

B. OPTION TO PAY AN IN-LIEU FEE

Affordable Housing In-Lieu Fee Schedule

# Recertifications

- Annual recertification required (unless state allows modifications).
- Verify household income/assets.
- Noncompliance = 8823 filing.


# Available Unit Rule

- If household income rises above limit:
  - Unit can remain LIHTC-eligible if next comparable available unit goes to an eligible household.

The Next Available Unit Rule
Table 2

| Unit # | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|---|---|---|---|---|---|---|---|---|
| Unit Size | 1 BED | 2 BED | 1 BED | 2 BED | 1 BED | 2 BED | 1 BED | 2 BED |
| Unit Type | LIHTC | LIHTC | LIHTC | LIHTC | MARKET RATE | MARKET RATE | MARKET RATE | MARKET RATE |
| June | | OI | | | | | | |
| July | | | | | V TC | | | |
| Aug | | | | | | V | | |
| Sept | | Raise to MKT | | | | TC | | |

# File Compliance

**Files must contain:**

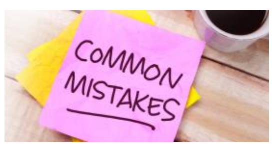
- Completed Tenant Income Certification (TIC).
- Income & asset verifications (wages, benefits, bank statements, imputed income).
- Student status documentation for all HH members 18+.
- State-specific forms and owner certifications.
- Signed release/verification forms.
- Timeliness: TIC at move-in; annual recerts within 120 days.
- Record retention: Minimum 6 years beyond compliance period.

## State Monitoring

- State HFA monitors compliance.
- File reviews + physical inspections.
- Report noncompliance to IRS on Form 8823.

## Common Pitfalls

- Late or missing recerts.
- Over-income households admitted.
- Student rule violations.
- Rent charged above LIHTC limit.
- Inconsistent TIC vs. file documentation.
- Incomplete or outdated verifications.



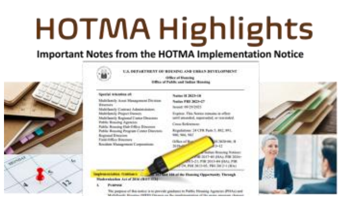

## Case Example

- Household B
- 3-person household
- Income = $53,000
- Limit (60% AMI, 3-person) = $52,500
- **Question:** Eligible or not?

## HOTMA LIHTC Update


**HOTMA Overview**
**LIHTC ONLY**

- HOTMA = Housing Opportunity Through Modernization Act.
- Directly applies to HUD programs, but **Section 42 defers to HUD 4350.3** for income/asset rules.
- **Impact on LIHTC:** Asset threshold & definitions align with HOTMA changes.
- **Compliance Date:** Jan 1, 2026→ HUD Multifamily; HFAs adopting for LIHTC as well.




## HOTMA vs. LIHTC Rules

| HUD (HOTMA) | LIHTC (IRS Sec. 42 / 4350.3) |
| --- | --- |
| Assets: >$50,000 (2025 = $51,500, adj. annually) | Same (Section 42 adopts 4350.3) → timing by HFA |
| Elderly deduction: $525 | No deduction |
| Medical deduction: >10% of income | No deduction |
| Interim recerts: required if income ↑ 10%+ | Not required (annual unless HFA policy) |
| Student rule clarified | Strict rule w/ exceptions |

## Key Takeaways: HOTMA & LIHTC

- HOTMA applies directly to HUD Multifamily (not LIHTC).
- For LIHTC-only sites → follow IRS + state rules.
- For blended HUD/LIHTC → apply stricter rule.
- Update policies and train staff before **Jan 1, 2026**.

## Key Takeaways

- LIHTC = IRS-DRIVEN, STATE-ADMINISTERED PROGRAM.
- STRICT INCOME & RENT LIMITS.
- ANNUAL RECERTS AND TICS ARE ESSENTIAL.
- COMPLIANCE PROTECTS TAX CREDITS.
- PURE LIHTC SITES FOLLOW IRS & HFA RULES, BUT MANY HFAS ARE ADOPTING HOTMA PROVISIONS.
- FOR BLENDED HUD + LIHTC: MUST APPLY STRICTER RULE.

## Resources & Q&A

- HUD Handbook 4350.3 REV-1
- HOTMA Final Rule (2023)
- HUD Multifamily Housing Notices & FAQs