

WHAT IS FORM 8609?

IRS Form 8609- Low-Income Housing Credit Allocation and Certification

Allocates tax credits on a building-by-building basis

- If acq/rehab- separate 8609 for each activity = 2 8609s per building

Part I: Allocation of Credit = completed by HFA

Part II: First-Year Certification = completed by owner

Form 8609 Low-Income Housing Credit Allocation and Certification
 (Rev. December 2021) Department of the Treasury Internal Revenue Service
 ▶ Go to www.irs.gov/Form8609 for instructions and the latest information. OMB No. 1545-0988

Part I Allocation of Credit
 Check if: Addition to Qualified Basis Amended Form
A Address of building (do not use P.O. box) (see instructions) **B** Name and address of housing credit agency
C Name, address, and TIN of building owner receiving allocation **D** Employer identification number of agency
E Building identification number (BIN)
 TIN ▶

1a Date of allocation ▶ b Maximum housing credit dollar amount allowable 1b
 2 Maximum applicable credit percentage allowable (see instructions) 2 %
 3a Maximum qualified basis 3a
 b Check here if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions) 3b 1 %
 4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-) 4 %
 5a Date building placed in service
 b Check here if the date of allocation on line 1a is in calendar year 2021 or 2022 and the building is located in a qualified disaster zone (see instructions).
 6 Check the boxes that describe the allocation for the building (check those that apply):
 a Newly constructed and federally subsidized b Newly constructed and not federally subsidized c Existing building
 d Sec. 42(e) rehabilitation expenditures federally subsidized e Sec. 42(e) rehabilitation expenditures not federally subsidized
 f Allocation subject to nonprofit set-aside under sec. 42(h)(5)

Signature of Authorized Housing Credit Agency Official—Completed by Housing Credit Agency Only
 Under penalties of perjury, I declare that the allocation made is in compliance with the requirements of section 42 of the Internal Revenue Code, and that I have examined this form and to the best of my knowledge and belief, the information is true, correct, and complete.

Signature of authorized official Date

Part II First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period
 7 Eligible basis of building (see instructions) 7
 8a Original qualified basis of the building at close of first year of credit period 8a
 b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No
 9a If box 8a or box 8d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)? Yes No
 b For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)? Yes No
 10 Check the appropriate box for each election.
Caution: Once made, the following elections are irrevocable.
 a Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶ Yes No
 b Elect not to treat large partnership as taxpayer (section 42(i)(5)) Yes
 c Elect minimum set-aside requirement (section 42(g)) (see instructions):
 20-50 40-60 Average income 25-60 (N.Y.C. only)
 d Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions) 15-40

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

Signature Taxpayer identification number Date

Name (please type or print) First year of the credit period

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63981U Form 8609 (Rev. 12-2021)

PART I: ALLOCATION OF CREDIT

Part I Allocation of Credit	
Check if: <input type="checkbox"/> Addition to Qualified Basis <input type="checkbox"/> Amended Form	
A Address of building (do not use P.O. box) (see instructions)	B Name and address of housing credit agency
C Name, address, and TIN of building owner receiving allocation	D Employer identification number of agency
	E Building identification number (BIN)
TIN ▶	
1a Date of allocation ▶	1b
2 Maximum applicable credit percentage allowable (see instructions)	2 %
3a Maximum qualified basis	3a
b Check here <input type="checkbox"/> if the eligible basis used in the computation of line 3a was increased under the high-cost area provisions of section 42(d)(5)(B). Enter the percentage to which the eligible basis was increased (see instructions)	3b 1 %
4 Percentage of the aggregate basis financed by tax-exempt bonds. (If zero, enter -0-.)	4 %
5a Date building placed in service ▶	
b Check here <input type="checkbox"/> if the date of allocation on line 1a is in calendar year 2021 or 2022 and the building is located in a qualified disaster zone (see instructions).	
6 Check the boxes that describe the allocation for the building (check those that apply):	
a <input type="checkbox"/> Newly constructed and federally subsidized	b <input type="checkbox"/> Newly constructed and not federally subsidized
c <input type="checkbox"/> Existing building	
d <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures federally subsidized	e <input type="checkbox"/> Sec. 42(e) rehabilitation expenditures not federally subsidized
f <input type="checkbox"/> Allocation subject to nonprofit set-aside under sec. 42(h)(5)	

PART II: FIRST-YEAR CERTIFICATION

Part II First-Year Certification — Completed by Building Owners with respect to the First Year of the Credit Period		7	
7	Eligible basis of building (see instructions)	7	
8a	Original qualified basis of the building at close of first year of credit period	8a	
b	Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9a	If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b	For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)? ▶	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10	Check the appropriate box for each election. Caution: Once made, the following elections are irrevocable.		
a	Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b	Elect not to treat large partnership as taxpayer (section 42(j)(5)) ▶	<input type="checkbox"/> Yes	
c	Elect minimum set-aside requirement (section 42(g)) (see instructions): <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> Average income <input type="checkbox"/> 25-60 (N.Y.C. only)		
d	Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)	<input type="checkbox"/> 15-40	

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

▶ ----- Signature	▶ ----- Taxpayer identification number	▶ ----- Date
▶ ----- Name (please type or print)	▶ ----- First year of the credit period	

A FEW NOTES ON LINE 8B

8a Original qualified basis of the building at close of first year of credit period 8a

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

Line 8b. Each building is considered a separate project under section 42(g)(3)(D) unless, before the close of the first calendar year in the project period (defined in section 42(h)(1)(F)(ii)), each building that is (or will be) part of a multiple building project is identified by attaching the statement described below.

- The statement must be attached to this Form 8609 and include:
- The name and address of the project and each building in the project,
 - The BIN of each building in the project,
 - The aggregate credit dollar amount for the project, and
 - The credit allocated to each building in the project.



Notwithstanding a checked “Yes” box on line 8b, failure to attach a statement providing the above required information will result in each building being considered a separate project under section 42(g)(3)(D). The minimum set-aside requirement (see [Line 10c](#), later) is a project-based test.

- Two or more qualified low-income buildings may be included in a multiple building project only if they:
- Are located on the same tract of land (including contiguous parcels), unless all of the dwelling units in all of the buildings being aggregated in the multiple building project are rent restricted units (see section 42(g)(7));
 - Are owned by the same person for federal tax purposes;
 - Are financed under a common plan of financing; and
 - Have similarly constructed housing units.

A qualified low-income building includes residential rental property that is an apartment building, a single-family dwelling, a town house, a row house, a duplex, or a condominium.

A FEW NOTES ON LINE 8B

8a Original qualified basis of the building at close of first year of credit period 8a

b Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)? Yes No

The “**project**” definition affects the following compliance rules:

- Minimum set-aside
- Unit transfers
- 100% recertification exemption
- Implementation of rent and income limits (gross rent floor & hold harmless)
 - If multiple building project, use PIS date of 1st building in the project

WHAT IS FORM 8823?

IRS Form 8823- Low-Income Housing Credit Agencies Report of Noncompliance or Building Disposition

Filed by the HFA to the IRS to notify the IRS that a LIHTC building is out of compliance or was disposed

- Disposed = sold, foreclosed, or destroyed

Filed on a building-by-building basis

Form 8823
(Rev. December 2019)
Department of the Treasury
Internal Revenue Service

**Low-Income Housing Credit Agencies
Report of Noncompliance or Building Disposition**
▶ File a separate Form 8823 for each building that is disposed of or goes out of compliance.
▶ Go to www.irs.gov/Form8823 for the latest information.

OMB No. 1545-1204
Check here if this is an amended return

1 Building name (if any). Check if line 1 differs from Form 8609 IRS Use Only

Street address

City or town, state, and ZIP code

2 Building identification number (BIN)

3 Owner's name. Check if line 3 differs from Form 8609

Street address

City or town, state, and ZIP code

4 Owner's taxpayer identification number EIN SSN

5 Total credit allocated to this BIN \$

6 If this building is part of a multiple building project, enter the number of buildings in the project ▶

7a Total number of residential units in this building ▶

b Total number of low-income units in this building ▶

c Total number of residential units in this building determined to have noncompliance issues (see instructions) ▶

d Total number of units reviewed by agency (see instructions) ▶

8 Date building ceased to comply with the low-income housing credit provisions (see instructions) (MMDDYYYY)

9 Date noncompliance corrected (if applicable) (see instructions) (MMDDYYYY)

10 Check this box if you are filing only to show correction of a previously reported noncompliance problem

11 Check the box(es) that applies:

	Out of compliance	Noncompliance corrected
a Household income above income limit upon initial occupancy	<input type="checkbox"/>	<input type="checkbox"/>
b Owner failed to correctly complete or document tenant's annual income recertification	<input type="checkbox"/>	<input type="checkbox"/>
c Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	<input type="checkbox"/>	<input type="checkbox"/>
e Changes in Eligible Basis or the Applicable Percentage (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
f Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
g Gross rent(s) exceeds limits	<input type="checkbox"/>	<input type="checkbox"/>
h Project not available to the general public (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(i)	<input type="checkbox"/>	<input type="checkbox"/>
j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(iv)	<input type="checkbox"/>	<input type="checkbox"/>
k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	<input type="checkbox"/>	<input type="checkbox"/>
l Low-income units occupied by nonqualified full-time students	<input type="checkbox"/>	<input type="checkbox"/>
m Owner did not properly calculate utility allowance	<input type="checkbox"/>	<input type="checkbox"/>
n Owner has failed to respond to agency requests for monitoring reviews	<input type="checkbox"/>	<input type="checkbox"/>
o Low-income units used on a transient basis (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
p Building is no longer in compliance nor participating in the section 42 program. (Attach explanation.)	<input type="checkbox"/>	<input type="checkbox"/>
q Other noncompliance issues (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>

12 Additional information for any line above. Attach explanation and check box

13a Building disposition by Sale Foreclosure Destruction Other (attach explanation)

b Date of disposition (MMDDYYYY)

c New owner's name

Street address

City or town, state, and ZIP code

d New owner's taxpayer identification number EIN SSN

14 Name of contact person

15 Telephone number of contact person Ext. _____

Under penalties of perjury, I declare that I have examined this report, including accompanying statements and schedules, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature of authorizing official Print name and title Date (MMDDYYYY)

For Paperwork Reduction Act Notice, see instructions. Cat. No. 12308D Form 8823 (Rev. 12-2019)

WHEN IS AN 8823 FILED?

To determine if an 8823 must be filed, ask 3 questions:

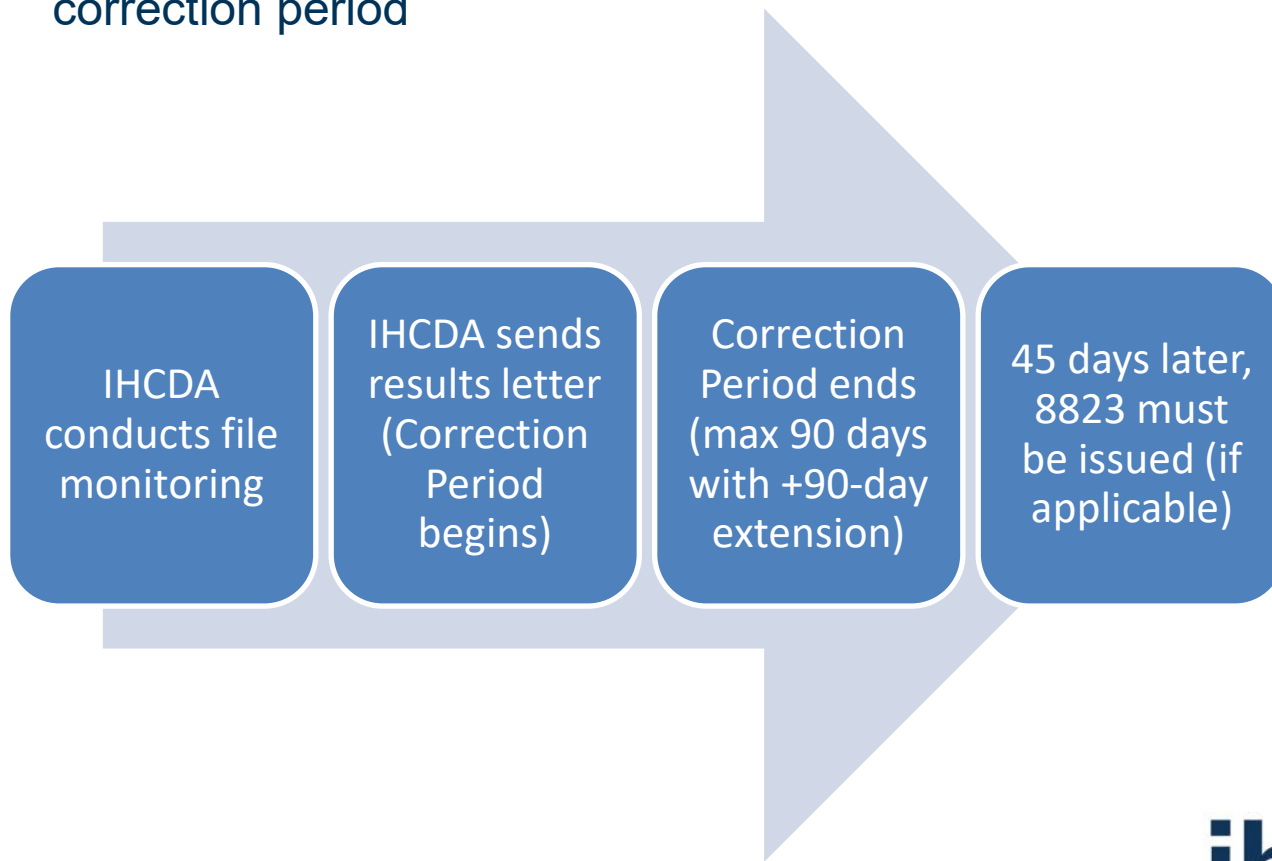
- Did the IHEDA file audit or inspection identify an issue?
- Is the issue a federal issue that violates tax code, regulation, or IRS published guidance for the LIHTC program?
- Is the project in its 15-year federal compliance period?

If the answer to **any** of the above is **NO**, then an **8823 is not issued**.

If the answer to **all** of the above is **YES**, then an **8823 must be issued**.

TIMING OF 8823 ISSUANCE

If an 8823 must be issued, IHCD must issue within 45 days of the end of the correction period



8823 TYPE 1: OUT OF COMPLIANCE

This means the noncompliance issue was NOT corrected during the correction period

		Out of compliance	Noncompliance corrected
11	Check the box(es) that applies:		
a	Household income above income limit upon initial occupancy	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b	Owner failed to correctly complete or document tenant's annual income recertification	<input type="checkbox"/>	<input type="checkbox"/>
c	Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
d	Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	<input type="checkbox"/>	<input type="checkbox"/>
e	Changes in Eligible Basis or the Applicable Percentage (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
f	Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
g	Gross rent(s) exceeds limits	<input type="checkbox"/>	<input type="checkbox"/>
h	Project not available to the general public (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
i	Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii)	<input type="checkbox"/>	<input type="checkbox"/>
j	Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)	<input type="checkbox"/>	<input type="checkbox"/>
k	Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	<input type="checkbox"/>	<input type="checkbox"/>
l	Low-income units occupied by nonqualified full-time students	<input type="checkbox"/>	<input type="checkbox"/>
m	Owner did not properly calculate utility allowance	<input type="checkbox"/>	<input type="checkbox"/>
n	Owner has failed to respond to agency requests for monitoring reviews	<input type="checkbox"/>	<input type="checkbox"/>
o	Low-income units used on a transient basis (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
p	Building is no longer in compliance nor participating in the section 42 program. (Attach explanation.)	<input type="checkbox"/>	<input type="checkbox"/>
q	Other noncompliance issues (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>

8823 TYPE 2: BACK IN COMPLIANCE

This means an “out of compliance” 8823 was already issued and the noncompliance is now corrected

Must file if corrected within 3 years

	Out of compliance	Noncompliance corrected
11 Check the box(es) that applies:		
a Household income above income limit upon initial occupancy	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b Owner failed to correctly complete or document tenant’s annual income recertification	<input type="checkbox"/>	<input type="checkbox"/>
c Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
d Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	<input type="checkbox"/>	<input type="checkbox"/>
e Changes in Eligible Basis or the Applicable Percentage (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
f Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
g Gross rent(s) exceeds limits	<input type="checkbox"/>	<input type="checkbox"/>
h Project not available to the general public (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
i Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii)	<input type="checkbox"/>	<input type="checkbox"/>
j Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)	<input type="checkbox"/>	<input type="checkbox"/>
k Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	<input type="checkbox"/>	<input type="checkbox"/>
l Low-income units occupied by nonqualified full-time students	<input type="checkbox"/>	<input type="checkbox"/>
m Owner did not properly calculate utility allowance	<input type="checkbox"/>	<input type="checkbox"/>
n Owner has failed to respond to agency requests for monitoring reviews	<input type="checkbox"/>	<input type="checkbox"/>
o Low-income units used on a transient basis (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
p Building is no longer in compliance nor participating in the section 42 program. (Attach explanation.)	<input type="checkbox"/>	<input type="checkbox"/>
q Other noncompliance issues (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>

8823 TYPE 3: OUT & BACK IN COMPLIANCE

This means the noncompliance was corrected during the correction period

		Out of compliance	Noncompliance corrected
11	Check the box(es) that applies:		
a	Household income above income limit upon initial occupancy	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
b	Owner failed to correctly complete or document tenant's annual income recertification	<input type="checkbox"/>	<input type="checkbox"/>
c	Violation(s) of the UPCS or local inspection standards including casualty losses (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
d	Owner failed to provide annual certifications or provided incomplete or inaccurate certifications	<input type="checkbox"/>	<input type="checkbox"/>
e	Changes in Eligible Basis or the Applicable Percentage (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
f	Project failed to meet minimum set-aside requirement (20/50, 40/60, average income test) (see instructions)	<input type="checkbox"/>	<input type="checkbox"/>
g	Gross rent(s) exceeds limits	<input type="checkbox"/>	<input type="checkbox"/>
h	Project not available to the general public (see instructions) (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
i	Violation(s) of the Available Unit Rule under section 42(g)(2)(D)(ii)	<input type="checkbox"/>	<input type="checkbox"/>
j	Violation(s) of the Vacant Unit Rule under Reg. 1.42-5(c)(1)(ix)	<input type="checkbox"/>	<input type="checkbox"/>
k	Owner failed to execute and record extended-use agreement within time prescribed by section 42(h)(6)(J)	<input type="checkbox"/>	<input type="checkbox"/>
l	Low-income units occupied by nonqualified full-time students	<input type="checkbox"/>	<input type="checkbox"/>
m	Owner did not properly calculate utility allowance	<input type="checkbox"/>	<input type="checkbox"/>
n	Owner has failed to respond to agency requests for monitoring reviews	<input type="checkbox"/>	<input type="checkbox"/>
o	Low-income units used on a transient basis (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>
p	Building is no longer in compliance nor participating in the section 42 program. (Attach explanation.)	<input type="checkbox"/>	<input type="checkbox"/>
q	Other noncompliance issues (attach explanation)	<input type="checkbox"/>	<input type="checkbox"/>