

## TAXPAYER CARRYOVER CERTIFICATION (2020 Tax Credits)

WHEREAS, allocations of housing credit dollar amounts by state housing credit agencies must, as a general rule, be made not later than the close of the calendar year in which a building is placed in service; and

WHEREAS, Section 42(h)(1)(E)(i) of the Internal Revenue Code of 1986, as amended (the "**Code**") provides an exception (the "**10% Basis Exception**") to the general rule and permits the Louisiana Housing Corporation acting as the State of Louisiana's Housing Credit Agency (the "**Agency**") to allocate low income housing credits ("**Credits**") to a "qualified building" which is placed in service by a taxpayer (the "**Taxpayer**") not later than the close of the second calendar year following the calendar year in which the allocation is made; and

WHEREAS, Section 42(h)(1)(E)(ii) defines a qualified building for purposes of Section 42(h)(1)(E)(i) as any building which is part of a project if the Taxpayer's basis in the project (as of the date which is 1 year after the date that the allocation was made) is more than ten percent (10%) of the Taxpayer's reasonably expected basis in the project (as of the close of the second calendar year succeeding the allocation year); and

WHEREAS, Treasury Regulations at 26CFR 1.42-6 ("**Carryover Regulations**") provide that the housing credit agency may allocate the Credits under section 42(h)(1)(E) or (F) of the Code, provided the housing credit agency verifies that more than 10 percent of the Taxpayer's reasonably expected basis in the project has, in fact, been incurred by the Taxpayer and, in accordance with the 2020 QAP, the Taxpayer must submit by October 15, 2020 the required documentation evidencing that the Taxpayer as of October 15, 2020 has incurred or will have incurred by not later than April 20, 2021 more than 10% of the reasonable expected basis in the project.

WHEREAS, the Carryover Regulations provide for how the Agency must verify reasonably expected basis (land and depreciable basis); and

WHEREAS, for purposes of determining whether the 10% Basis Exception applies, the following basis rules (the "**Carryover Allocation Basis Rules**") shall apply:

- (1) Basis means the adjusted basis of land and depreciable real property, whether or not such amounts are includable in eligible basis. Thus, for example, if the project is to include property that is not residential rental property, such as commercial space, the basis attributable to the commercial space, although not includable in eligible basis, is includable in carryover-allocation basis. The adjusted basis of land and depreciable real property is determined under sections 1012 and 1026 of the Code, and generally includes the direct and indirect costs of acquiring, constructing and rehabilitating the property. Costs otherwise includable in carryover-allocation basis are not excluded by reason of having been incurred prior to the calendar year in which the carryover allocation is made.

- 2) Limitations - For purposes of determining carryover-allocation basis under paragraph (1) above, the following limitations apply:
- (i) Taxpayer must have basis in land or depreciable property related to the project. A Taxpayer has carryover allocation basis to the extent that it has basis in land or depreciable property and the land or depreciable property is reasonably expected to be part of the project which the carryover allocation is made. This basis includes all items that are properly capitalizable with respect to the land or depreciable property. For example, a non-refundable down payment for, or an amount paid to acquire an option to purchase land or depreciable property may be included in carryover allocation basis if properly capitalizable into the basis of land or depreciable property that is reasonably expected to be part of a project.
  - (ii) High cost areas. Any increase in eligible basis that may result under section 42(d)(5)(C) from the projects location in a qualified census tract or difficult development area is not taken into account in determining carryover-allocation basis or reasonably expected basis.
  - (iii) Amounts not treated as paid or incurred. An amount is not includable in carryover-allocation basis unless it is treated as paid or incurred under the method of accounting used by the Taxpayer. For example, a cash method Taxpayer cannot include construction costs in carryover-allocation basis unless the costs have been paid, and an accrual method Taxpayer cannot include construction costs in carryover-allocation basis unless they have been properly accrued. See paragraph (2)(vi) below for a special rule for fees to be paid to related persons.
  - (iv) Other fees. A fee is includable in carryover-allocation basis only to the extent the requirements of paragraph (iii) above are met and
    - (A) The fee is reasonable;
    - (B) The Taxpayer is legally obligated to pay the fee;
    - (C) The fee is capitalized as part of the taxpayer's basis in land or depreciable real property that is expected to be part of the project;
    - (D) The fee is not paid (or to be paid) by the Taxpayer to itself; and
    - (E) If the fee is paid (or to be paid) by the Taxpayer to a related person and the Taxpayer uses the cash method of accounting, the Taxpayer could properly accrue the fee under the accrual method of accounting [including the rules of section 461(h)]. A person is a related person if the person bears a relationship to the Taxpayer

specified in sections 267(b) or 707(b)(1), or the person and the Taxpayer are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

- (3) Reasonably expected basis. Rules similar to the rules of paragraphs (1) and (2) above apply in determining the Taxpayer's reasonably expected basis in the project (land and depreciable basis) as of the end of the required measuring period.

NOW, THEREFORE, THE UNDERSIGNED TAXPAYER CERTIFIES TO THE AGENCY AS FOLLOWS:

Section 1. The preamble and specifically the Basis Rules outlined in the preamble of this Taxpayer Carryover Certification have been reviewed by Taxpayer and applied by the Taxpayer to certify the following information:

- (a) The name of the Project as contained in the Tax Credit Application Package to the Agency is:
  
  
- (b) The Credits reserved by the Agency and the address (or specific description of location) of each building in the project is as follows:

<b>Reserved Credits</b>	<b>Street Address</b>	<b>City</b>	<b>Zip Code</b>
_____	_____		
_____	_____		
_____	_____		
_____	_____		
_____	_____		
_____	_____		
_____	_____		
_____	_____		
_____	_____		

(c) The name, address and Taxpayer identification number of the Taxpayer receiving the allocation is as follows:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TAXPAYER ID# \_\_\_\_\_

(d) The Taxpayer's total reasonably expected basis in the project (land and depreciable basis) as of the end of 2022 will be:

\$\_\_\_\_\_ (the "**Reasonably Expected Basis**").

(e) The Taxpayer certifies that Taxpayer's basis in the project (land and depreciable basis) by October 15, 2020 is \$ \_\_\_\_\_ \* (the "**Current Basis**").

(f) The Current Basis of the Project is \_\_\_\_\_% of the Reasonably Expected Basis.

(g) Each building is expected to be placed in service on the following dates: (Use building numbers assigned by the Agency.)



by the Agency to use the appropriate percentage for a month other than the month in which each building is placed in service.

Section 5. Attached hereto is (check one or both):

- Attorney Opinion
- CPA Certificate

Section 6. The Taxpayer acknowledges and certifies that there has been no material change or reprocessing change in the Project and that the information contained in the Application for the Project's reservation of tax credits remains true and correct. If there any reprocessing change has occurred, the Taxpayer has submitted an amendment to the Application describing such reprocessing changes.

THUS DONE AND SIGNED on the \_\_\_\_\_ day of \_\_\_\_\_, 2020 and in the presence of the undersigned competent witnesses, under penalty of perjury.

\_\_\_\_\_  
Taxpayer Name

By: \_\_\_\_\_  
Title:

Witnesses:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Notary Public