

Recapture of Low-Income Housing Credit

▶ Attach to your return.

OMB No. 1545-1035

Attachment
Sequence No. **90**

Note: If you have recapture from more than one building, you must complete a separate Form 8611 for each building.

| | | | |
|--|--|---|--|
| A Name(s) shown on return | | B Identifying number | |
| C Address of building (as shown on Form 8609) | | D Building identification number (BIN) | E Date placed in service (from Form 8609) |
| F If building is financed in whole or part with tax-exempt bonds, see instructions and furnish: | | | |
| (1) Issuer's name | | (2) Date of issue | |
| (3) Name of issue | | (4) CUSIP number | |

Note: If recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust), skip lines 1 – 7 and go to line 8.

| | | | |
|--|-----------|------|---|
| 1 Enter total credits reported on Form 8586 in prior years for this building. | 1 | | |
| 2 Credits included on line 1 attributable to additions to qualified basis (see instructions) | 2 | | |
| 3 Credits subject to recapture (subtract line 2 from line 1) | 3 | | |
| 4 Credit recapture percentage | 4 | .333 | |
| 5 Accelerated portion of credit (multiply line 3 by the percentage on line 4) | 5 | | |
| 6 Percentage decrease in qualified basis (see instructions before completing this line). | 6 | | % |
| 7 Amount of accelerated portion recaptured—(multiply line 5 by the percentage on line 6). Section 42(j)(5) partnerships, go to line 13. All other flow-through entities, enter the result here and enter each recipient's share on the appropriate line of Schedule K-1. Generally, flow-through entities will stop here. (Note: An estate or trust enters on line 8 only its share of recapture amount attributable to the credit amount reported on its Form 8586.) | 7 | | |
| 8 Enter recapture amount from flow-through entity. | 8 | | |
| 9 Enter unused credit attributable to this building | 9 | | |
| 10 Net recapture (Subtract line 9 from line 7 or line 8. If less than zero, enter -0-.) | 10 | | |
| 11 Enter interest on the line 10 recapture amount (see instructions) | 11 | | |
| 12 Total recapture (add lines 10 and 11). Enter here and on the appropriate line of your tax return. If more than one Form 8611 is filed, add the line 12 amounts from all forms and enter the total on the appropriate line of your return | 12 | | |

Only Section 42(j)(5) partnerships need to complete lines 13 and 14.

| | | | |
|---|-----------|--|--|
| 13 Enter interest on the line 7 recapture amount (see instructions). | 13 | | |
| 14 Total recapture (add lines 7 and 13—see instructions) | 14 | | |

General Instructions

Section references are to the Internal Revenue Code

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** 6 hr., 56 min.
- Learning about the law or the form** 1 hr., 5 min.
- Preparing and sending the form to the IRS** 1 hr., 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the IRS at the address listed

in the instructions for the tax return with which this form is filed.

Purpose of Form

Use this form if you must recapture part of the low-income housing credit you took in previous years because there was a decrease in the qualified basis of a building from one year to the next or because you disposed of the building or an ownership interest in it without posting a satisfactory bond (see section 42(j)(6) and **Form 8693**, Low-Income Housing Credit Disposition Bond, for details).

Note: If the decrease in qualified basis is because of a change in the amount for which you are financially at risk on the building, then you must first recalculate the amount of credit taken in prior years pursuant to section 42(k) before you calculate the recapture amount on this form.

To complete this form you will need copies of the following forms that you have filed: **Form 8586**, Low-Income Housing Credit (and **Form 3800**, General Business Credit, if applicable); **Form 8609**, Low-Income Housing Credit Allocation

Certification; **Schedule A (Form 8609)**, Annual Statement; and Form 8611.

Note: Flow-through entities must give partners, shareholders, and beneficiaries the information that is reported in items C, D, E, and F of Form 8611.

Generally, recapture applies if:

- You dispose of a building or an ownership interest in it; or
- There is a decrease in the qualified basis of the building from one year to the next; or
- The building no longer meets the minimum set-aside requirements of section 42(g)(1), the gross rent requirement of section 42(g)(2), or the other requirements for the units which are set aside.

Recapture **does not** apply if:

- You disposed of the building or an ownership interest in it and you posted a satisfactory bond. See section 42(j)(6) and Form 8693 for details; or
- The decrease in qualified basis does not exceed the additions to qualified basis for which credits were allowable in years after the year the building was placed in service; or

• You correct a noncompliance within a reasonable period after it is discovered or should have been discovered. (However, recapture applies if any vacant unit of comparable or smaller size to the low-income units is rented to other than a low-income tenant (on other than a temporary basis) during any period when the project does not comply with the set-aside requirement or has experienced a reduction in qualified basis for which credits were allowable.); or

• The credit did not reduce your tax liability. In such cases, the allowable general business credit carryback and carryforward must be adjusted; or

• The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

Recordkeeping Requirements

To verify changes in qualified basis from year to year, you must keep, for 3 years after the 15-year compliance period ends, a copy of all Forms 8586, 8609, Schedule A (Form 8609), 8611, and 8693.

Specific Instructions

Note: If recapture is passed through from a flow-through entity (partnership, S corporation, estate or trust), skip lines 1-7 and go to line 8.

Item F.—If the building is financed with tax-exempt bonds, furnish the following information: **(1)** name of the entity that issued the bond, not the name of the entity receiving the benefit of the financing; **(2)** date of issue, generally the first date there is a physical exchange of the bonds for the purchase price; **(3)** name of the issue, or if not named, other identification of the issue; and **(4)** CUSIP number of the bond with the latest maturity date. If the issue does not have a CUSIP number, enter "None."

Line 1.—Enter the total credits claimed on the building for all prior years from Part I, Form 8586 (before reduction due to the tax liability limitations). No credit may be claimed in the year of recapture. See Part I of Form(s) 8586 you have filed. Do not include credits taken by a previous owner.

Line 2.—Determine the amount to enter on this line by completing a separate **Line 2 Worksheet** (below) for each prior year for which line 7 of Schedule A (Form 8609) was completed.

Line 4.—In general, one-third (.333) of the credits taken that are not attributable to additions to qualified basis (the accelerated portion of the credits taken in prior years) must be recaptured if there is a decrease in qualified basis in a subsequent year.

Line 6.—Enter the percentage decrease in qualified basis from the close of the previous year to the close of the current year.

For this purpose, figure qualified basis without regard to any additions to qualified basis after the first year of the credit period. Apply any decrease in qualified basis first to additions to qualified basis. Recapture applies only if the decrease in qualified basis exceeds additions to qualified basis after the first year of the credit period.

If you disposed of the building or an ownership interest in it and did not post a bond, you must recapture all of the accelerated portion shown on line 5. Enter 100% (1.00) on line 6.

Note: If the decrease causes the qualified basis to fall below the minimum set-aside requirements of section 42(g)(1) (the 20-50 test or the 40-60 test), then 100% of the amount shown on line 5 must be recaptured. Enter 100% (1.00) on line 6. If you elected the 40-60 test for this building and the decrease causes you to fall below 40%, you **cannot** switch to the 20-50 test to meet the set-aside requirements. You must recapture the entire amount shown on line 5.

Line 11—Interest.—Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest due must be computed at the overpayment rate determined under section 6621(a)(1) and compounded on a daily basis from the due date (not including extensions) of the return for the prior year until the earlier of **(1)** the due date (not including extensions) of the return for the recapture year, or **(2)** the date the return for the recapture year is

filed and any income tax due for that year has been fully paid.

Tables of interest factors to compute daily compound interest were published in Rev. Proc. 83-7, 1983-1 C.B. 583. Annual interest rates to be compounded daily and the tables that apply for periods through December 31, 1994, are shown below:

| Period | Rate | Daily Rate Table in 1983-1 C.B. |
|------------------|------|---------------------------------|
| 1/1/87—9/30/87 | 8% | Table 14, p. 597 |
| 10/1/87—12/31/87 | 9% | Table 15, p. 598 |
| 1/1/88—3/31/88 | 10% | Table 40, p. 624 |
| 4/1/88—9/30/88 | 9% | Table 39, p. 623 |
| 10/1/88—12/31/88 | 10% | Table 40, p. 624 |
| 1/1/89—3/31/89 | 10% | Table 16, p. 599 |
| 4/1/89—9/30/89 | 11% | Table 17, p. 600 |
| 10/1/89—3/31/91 | 10% | Table 16, p. 599 |
| 4/1/91—12/31/91 | 9% | Table 15, p. 598 |
| 1/1/92—3/31/92 | 8% | Table 38, p. 622 |
| 4/1/92—9/30/92 | 7% | Table 37, p. 621 |
| 10/1/92—12/31/92 | 6% | Table 36, p. 620 |
| 1/1/93—6/30/94 | 6% | Table 12, p. 595 |
| 7/1/94—9/30/94 | 7% | Table 13, p. 596 |
| 10/1/94—12/31/94 | 8% | Table 14, p. 597 |

For periods beginning after December 31, 1994, use the overpayment rate under section 6621(a)(1) in the revenue rulings published quarterly in the Internal Revenue Bulletin.

Note: If the line 8 recapture amount is from a section 42(j)(5) partnership, the partnership will figure the interest and include it in the recapture amount reported to you. Enter "-0-" on line 11 and write "Section 42(j)(5)" to the left of the entry space for line 11.

Lines 13 and 14.—These lines are completed only by a section 42(j)(5) partnership. This is a partnership that has at least 35 partners, unless the partnership elects (or has previously elected) not to be treated as a section 42(j)(5) partnership. For purposes of this definition, a husband and wife are treated as one partner.

For purposes of determining the credit recapture amount, a section 42(j)(5) partnership is treated as the taxpayer to which the low-income housing credit was allowed and as if the amount of credit allowed was the entire amount allowable under section 42(a).

See the instructions for line 11 to figure the interest on line 13. The partnership must attach Form 8611 to its Form 1065 and allocate this amount to each partner on Schedule K-1 (Form 1065) in the same manner as the partnership's taxable income is allocated to each partner.

Line 2 Worksheet

| | |
|---|----------|
| a Enter the amount from line 10, Schedule A (Form 8609) | a |
| b Multiply a by 2 | b |
| c Enter the amount from line 11, Schedule A (Form 8609) | c |
| d Subtract c from b | d |
| e Enter decimal amount figured in step (a) of the instructions for line 14 (or step (f) of the earlier version), Schedule A (Form 8609). If line 14 does not apply to you, enter -0- | e |
| f Multiply d by e | f |
| g Subtract f from d | g |
| h Divide line 16, Schedule A (Form 8609) by line 15, Schedule A (Form 8609). Enter the result here | h |
| i Multiply g by h . Enter this amount on line 2. (If more than one worksheet is completed, add the amounts on i from all worksheets and enter the total on line 2.) | i |