



STATE UPDATE

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46th Annual AHMA-PSW Conference & Expo
May 21 – 23, 2023

CALIFORNIA UPDATE

On October 7, 2022, the IRS released IRS Notice 2022-52, which extends and reverts to some of the previous provisions from IRS Notices 2020-53, 2021-12 and 2022-05 regarding requirements of the LIHTC Program

Reasonable Notice - 15-day Notice

- Per IRS Notice 2022-52, reasonable notice of intent to conduct an inspection reverted to no more than 15 calendar days beginning January 1, 2023

Casualty Loss

- If the reasonable restoration period ends on or after 4/1/2020, the period is extended by 24 months, but no later than 12/31/2023

CALIFORNIA UPDATE

Compliance Monitoring

- Did not extend the moratorium on compliance monitoring
- Granted the States the ability for a moratorium on the onsite physical inspection of a property through 12/31/2023, if the level of COVID-19 transmission makes such an extension appropriate
 - Currently, CTCAC is completing full inspections at CTCAC properties

CALIFORNIA UPDATE

Correction Period

Per IRS Notice, if a correction period ends on or after 4/1/2020, and before 12/31/2022, then the correction period for non-compliance findings can be extended by a year, but not beyond 12/31/2023

- If the correction period originally set ends during 2023, the end of the period is extended to 12/31/2023
- In California, for inspections that were or will be conducted for the period of 4/1/2020 – 12/31/2023, CTCAC will continue to offer a 60-day correction period for non-compliance findings
 - If there is a valid need to extend the correction period, an owner can request from CTCAC a longer correction period
 - CTCAC will evaluate each request on a case-by-case basis

CALIFORNIA UPDATE

Front End Processes

10% Test deadline, 24-month minimum rehabilitation expenditure deadline,
Occupancy Obligations

- No changes from Notice 2022-05 – Please review IRS Guidance for 2022 – IRS Notice 2022-52 Memo for additional information and dates.
 - <https://www.treasurer.ca.gov/ctcac/compliance/memos/memo-irs-notice.pdf>

CALIFORNIA UPDATE

Placed in Service (PIS) Deadline

- If original deadline for the project was the close of calendar year 2020, the PIS deadline is extended to the close of calendar year 2022 (December 31, 2022)
- If the original deadline for the project was the close of calendar year 2021 and the original deadline for the 10% Test was before April 1, 2020, the PIS deadline is extended to the close of calendar year 2023 (December 31, 2023)

CALIFORNIA UPDATE – COVID 19

COVID-19 Pandemic Guidance

- National Emergency declarations state that the federal pandemic end date will be May 11, 2023
- In California, the state of emergency for the COVID-19 pandemic ended on February 28, 2023
- All temporary COVID related guidance and extensions issued by CTCAC will remain in effect through December 31, 2023
 - All previous policies that received an extension or waiver will go back into effect on January 1, 2024

CALIFORNIA UPDATE - FORMS

Updated CTCAC Forms

- In April of 2022, CTCAC released updated versions of all CTCAC required forms
- As of January 1, 2023, failure to use the updated forms will result in a finding of noncompliance
- Forms on the Website are in a fillable .pdf format
 - If you need the original Excel Version of the Forms, please contact Pa Kou Yang at pakou.yang@treasurer.ca.gov
 - Word Versions of the Forms are no longer available

CALIFORNIA UPDATE – RENT FAQ

LIHTC Rent Requirement FAQ

- In October of 2022, CTCAC posted a LIHTC Rent Requirement FAQ on our website at: <https://www.treasurer.ca.gov/ctcac/2022/compliance.pdf>
- The intent of the FAQ is to answer regularly asked questions by tenants, onsite management, and new owners about rent policies, requirements, and changes in rent
- The FAQ's contain a link to the Guide to Residential Tenant's and Landlord's Rights and Responsibilities (CA Tenant/Landlord Law)
 - Applicable to ALL tenants and landlords – not just LIHTC
 - Found at: <https://www.courts.ca.gov/documents/California-Tenants-Guide.pdf>

CALIFORNIA UPDATE – FINE AUTHORITY

Fines and Fine Authority

- In 2016 CA Assembly Bill 1920 authorized CTCAC to levy fines for non-compliance violations of the tax credit program
- In 2021, the Committee approved an updated fine schedule which modified the language and fine amounts for several violations
 - Fines will be assessed for instances of non-compliance on inspections that commenced on October 1, 2021
 - Primarily on issues that remain uncorrected after 60-day correction period, however, some issues have an immediate fine which will be applied (*corrected or not*)

CALIFORNIA UPDATE - FINES

Issuance of fines ensures compliance for the duration of the 55-year extended use period, in cases where requirements were either not regulated by IRS or no longer being regulated by IRS

- Owner not meeting site and service amenities required by state regulations
 - O/I's or O/R's found during the extended use period
 - Change in ownership entities without TCAC approval
- No issuance of fines will be assessed if 8823/negative points have been issued for a violation
 - Fine Schedule and Memo located

<https://www.treasurer.ca.gov/ctcac/compliance/memos/Schedule.pdf>

CALIFORNIA UPDATE - FINES

Fine payments are due within 30 days of assessment or completion of appeal. CTCAC may record a lien against the property if:

- If fine not paid within six months from the date when fine was initially assessed or after reasonable notice has been provided to the property owner
- If a violation for which a fine is assessed is not corrected within 90 days of the assessed fine
- Appeal Process:
 - Formal letter of appeal must be sent to the attention of Executive Director
 - If denied by the Executive Director, it may be appealed to the committee

Example:

Compliance Period		Compliance Violation	Corrective Time Period	Initial Fine	Re-occurring Fine
15-Year	Extended				
	X	Uncorrected UPCS – Level 1	30-Day Corrective Period	\$100 per instance	\$50 per instance per month until corrected
	X	Unit Vacant/Offline for more than 60 days	Immediate	\$250 if unit is vacant more than 60 days, not turnkey ready, not being advertised or being held for another agency	\$250 per instance per month until corrected
X	X	Change in Unit Mix without CTCAC Approval	Immediate	\$500	\$500 per month until corrected

CALIFORNIA UPDATE - FINES

Compliance Fines Example:

CTCAC staff do an inspection on Extended Use Property Garden Valley Apartments on December 15, 2022. From the PSR, Unit #205 has been vacant since September 1, 2022. The unit is turn-key ready but is not being marketed. CTCAC staff issue a Notice of Noncompliance on January 20, 2023 and a give a correction period of 60 days. On March 24, 2023, the owner replies that they are waiting for a household from the local PHA because of a contract. They have no idea when the PHA will provide a qualified tenant.

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CTCAC will issue the following Fine:

Unit Offline/Vacant for more than 60 days

How to calculate the fine:

Sept 1, 2022 – March 31, 2023 = 7 Months

\$250 (immediate fine) + (\$250 per month for 7 months = \$1750) = **\$2000**

CALIFORNIA UPDATE - FINES

Compliance Fines Example:

- CTCAC staff will issue a fine to the owner on April 1, 2022 for the amount of \$2000
- Since the finding remains uncorrected, CTCAC will issue another \$250 fine every month until documentation is submitted that a qualified household occupies the unit
- If the owner fails to pay the fine, or the noncompliance remains uncorrected for another 90 days, CTCAC may put a lien on the property

2022 ANNUAL OWNER CERTIFICATION

- Part I - Annual Owner Certification (AOC) Form and Project Ownership Profile (POP) Form
 - Due April 3, 2023
 - Julio Villanueva – Program Analyst in charge of Part I
 - Julio.Villanueva@treasurer.ca.gov
- Part II – Annual Operating Expense (AOE) Form and Lender Profile (LP) Form
 - Due June 5th, 2023
 - Jerry Yang – Program Analyst in charge of Part II
 - Jerry.Yang@treasurer.ca.gov
- If 2022 forms not submitted for your project in 2023, CTCAC will impose an 8823 or fines.

2022 ANNUAL OWNER CERTIFICATION

- 2022 AOC Form – only form in the AOC Package to have changes from previous years
- CTCAC added questions to the bottom regarding Electronic Storage

Additional Questions

Yes <input type="checkbox"/> No <input type="checkbox"/>	If your project has 160 or less LIHTC Units, will it have an electronic copy of all tenant files by the end of 2023?
Yes <input type="checkbox"/> No <input type="checkbox"/>	If your property has 161 or more LIHTC Units or is a Mixed-use property with conventional units and LIHTC units, will it have an electronic copy of all tenant files by the end of 2024?
Yes <input type="checkbox"/> No <input type="checkbox"/>	If yes to the above, will your property discard all paper tenant files at your property at the end of 2024?

2022 ANNUAL OWNER CERTIFICATION

- AIT Spreadsheet added to 2nd tab of the AOC Form
 - Only required for AIT Projects
 - Should match CTCAC Reg Agreement

Studio	1BR	2BR	3BR	4BR	5BR	6BR	Total	MTSP	Average
		5					5	80%	
		5					5	30%	
			5				5	70%	
			5				5	30%	
				10			10	60%	
				10			10	50%	
		5					5	70%	
							0		

2022 TENANT DEMOGRAPHIC REPORTING

- Due March 16, 2023
- Contractor for 2022 data continues to be Spectrum Enterprises
 - Paul Perpich Spectrum Contact
 - 517-277-0120
 - HUDHelp@SpectrumLIHTC.com

2022 TENANT DEMOGRAPHIC REPORTING

- CTCAC Contact for Tenant Demographic Data
 - Pheng Moua – Program Analyst
 - Pheng.Moua@treasurer.ca.gov
 - Elizabeth Gutierrez-Ramos – Compliance Chief
 - Elizabeth.Gutierrez@treasurer.ca.gov
- If 2022 tenant demographic data not submitted for your project in 2023, CTCAC will impose fines

Q & A