

WHAT IS THE LOW-INCOME HOUSING TAX CREDIT PROGRAM IN ARIZONA?

“Developers need to understand the requirements of the Low Income Housing Tax Credit program and complete a comprehensive application demonstrating that they should qualify for the federal tax incentives.”





The Low-Income Housing Tax credit program is a federal tax credit program that was created by the Tax Reform Act of 1986. Details about the Low-Income Housing Tax Credit Program (LIHTC) can be found in the Internal Revenue Code (IRC), Section 42.

Although the program exists on the federal level, the individual states have authority to make determinations about which developers will become eligible to receive these important tax incentives. Pursuant to the IRC, a qualified allocation plan is prepared annually. In the state of Arizona, the Arizona Department of Housing prepares this plan, which is approved by the governor.

Developers who qualify for the LIHTC can receive significant tax benefits when developing qualified housing projects. Developers need to understand the

requirements and complete a comprehensive application demonstrating that they should qualify for the federal tax incentives. An experienced real estate development attorney should be consulted who has helped past clients to successfully qualify for Low-Income Housing Tax Credits.

UNDERSTANDING THE LOW-INCOME HOUSING TAX CREDIT PROGRAM



The LIHTC program was created in order to incentivize developers to rehabilitate, remodel or construct affordable rental housing for lower-income individuals and lower-income families. The [Arizona](#)

[Department of Housing](#) indicates that the LIHTC program has been the “most successful rental housing production program in Arizona.”

The LIHTC program provides a dollar-for-dollar tax credit to qualifying developers. The credit reduces the federal income tax obligations of the owner of a housing development that provides units catering to tenants with limited incomes. Both developers and investors may qualify for LIHTC provided they own a qualifying property.

The tax credits made available to owners are claimed over a 10-year period. Once the credits are allocated to a development, the credits will be claimed by

the property owner in equal amounts over the course of the decade. The tax credits have to be allocated by the Arizona Department of Housing to a *specific development* that is constructed for the purpose of providing housing to residents with limited incomes.

The development that has entitled the owner to receive low-income housing tax credits must follow the specific guidelines required for eligibility for a full 30 year period from the time when the first taxable year in which the credit is claimed. This means that the building must remain in compliance for a longer period of time than the credits are paid out.



PROPERTIES ELIGIBLE FOR THE LOW-INCOME HOUSING TAX CREDIT PROGRAM

Only specific properties are eligible for the Low-Income Housing Tax Credit Program. Credits may be allocated to a proposed development provided that it is a residential rental property that meets one of two specific requirements. The residential rental property must either:

- Allocate at least 20 percent of the residential rental units within the development to people whose incomes are 50 percent or less of the gross median income in the area (Area Gross Median Income, or AMGI). The 20 percent of the rental units allocated to lower income individuals must be rent restricted and must actually be occupied by people who qualify based on their AMGI.



- Allocate at least 40 percent of the residential rental units within the development to people whose incomes are 60 percent or less of the AMGI. The units must be occupied by lower-income individuals with qualifying AMGIs and they must also be rent restricted.

The tax credits can be claimed on specific housing units that are set aside to participate in the LIHTC Program. The housing development may be a new construction in order for the developer to qualify. If a developer or owner is seeking credits on an existing structure, then the unit must require substantial rehabilitation in order for credits to be claimed. The unit may be acquired and rehabilitated, or it may be owned by the developer but substantially rehabilitated for the purpose of providing low-income housing.

The tax credits are awarded on a competitive basis and states have authority to establish their own practices for awarding credits within the federal guidelines. When creating its Qualified Allocation Plan, the Arizona Department of Housing has made clear that the tax credits will be targeted to residential rental units that provide units at income levels below the federal requirements. In other words, developers who provide units available to people with even lower incomes, or who provide more units to low-income individuals, will be given preference when credits are allocated.

An experienced real estate development lawyer can assist with applying for tax credits as part of the Low-Income Housing Tax Credit program.

About the Author

Lotzar Law Firm, P.C. was founded in 2005, and serves clients throughout the U.S. We pride ourselves on the level of service we provide our clients and are determined to see each project through to positive results.

In addition to bringing a legal expertise to the table, we offer clients sound ideas and invaluable advice that enhances their business. One of our greatest attributes is our ability to approach projects from a business-owner perspective. Rather than narrowing in on the setbacks of a challenge and informing clients of what stands in the way, we prefer to seek innovative ways to transcend issues and create a better path for clients. With an unparalleled savvy in developing modern methods of financing, we can present you with viable and efficient options.

Our diversified portfolio of clients is comprised of entrepreneurs, real estate developers, contractors and property managers. We also do business with numerous nonprofit clients including Chicanos Por La Causa, Inc.; Tiempo, Inc.; and The Industrial Development Authority of the City of Tucson, Arizona.

We work in a team-based environment, supported by a skilled and caring staff, eager to answer your questions and provide you with consistent access to your team. Whether your needs are small or large in scope, we look forward to working with you.

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