

Under section 42(d)(5)(C) of the Code, a Qualified Census Tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income less than 60% of the AMGI. There is a limit on the amount of Qualified Census Tracts in any Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA") that may be designated to receive an increase in eligible basis: all of the designated census tracts within a given MSA/PMSA may not together contain more than 20% of the total population of the MSA/PMSA. For purposes of this rule, all non-metropolitan areas in a state are treated as if they constituted a single metropolitan area.

Section 42 defines a Difficult Development Area as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. Again, limits apply. All designated Difficult Development Areas in MSAs/PMSAs may not contain more than 20% of the aggregate population of all MSAs/PMSAs, and all designated areas not in metropolitan areas may not contain more than 20% of the aggregate population of the non-metropolitan counties.

An amendment to section 42 made by section 11701(a)(2) of the Omnibus Budget Reconciliation Act of 1990 specifies that the income test for designation of Qualified Census Tracts should be based on the most recent census data. Changes in MSA/PMSA definitions made after HUD's last designation of Qualified Census Tracts and Difficult Development Areas necessitate this notice.

Explanation of HUD Designation Methodology

A. Qualified Census Tracts

In developing this revised list of LIHTC Qualified Census Tracts, HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1993. Beginning with the 1990 census, tract-level data are available for the entire country. Generally, in metropolitan areas these geographic divisions are called census tracts while in most non-metropolitan areas the equivalent nomenclature is Block Numbering Area ("BNA"). BNAs are treated as census tracts for the purposes of this Notice.

The LIHTC Qualified Census Tracts were determined as follows:

1. A census tract must have 50% of its households with incomes below 60%

of the AMGI to be eligible. HUD has defined 60% of AMGI income as 120% of HUD's Very Low Income Limits, that are based on 50% of area median family income, adjusted for high cost and low income areas. The 1994 income estimates were then deflated to 1989 dollars, so they would match the 1990 Census income data.

2. For each census tract, the percentage of households below the 60% income standard was determined by (a) calculating the average household size of the census tract, (b) applying the income standard after adjusting it to match the average household size, and (c) calculating the number of households with incomes below the income standard.

3. Qualified Census Tracts are those in which 50% or more of the households are income eligible and the population of all census tracts that satisfy this criterion does not exceed 20% of the total population of the respective area.

4. In areas where more than 20% of the population qualifies, census tracts are ordered from the highest percentage of eligible households to the lowest. Starting with the highest percentage, census tracts are included until the 20% limit is exceeded. If a census tract is excluded because it raises the percentage above 20%, then subsequent census tracts are considered to determine if a census tract with a smaller population could be included without exceeding the 20% limit.

B. Difficult Development Areas

In developing the list of Difficult Development Areas, HUD compared incomes with housing costs. HUD used 1990 Census data and the MSA/PMSA definitions established by the Office of Management and Budget that applied as of June 30, 1993. The basis for these comparisons was the HUD income limits and Fair Market Rents ("FMRs") used for the section 8 Housing Assistance Payments Program. The procedure used in making these calculations follows:

1. For each MSA/PMSA and each non-metropolitan county, a ratio was calculated. This calculation used the FY 1994 two-bedroom FMR and the FY 1994 four-person income limit for Very Low Income households. The numerator of the ratio was the ratio of the area FMR to the FY 1994 U.S. average FMR. The denominator of the ratio was the ratio of 60% of the AMGI to 60% of the FY 1994 U.S. average of area median gross incomes.

2. The ratios of the FMR to the income limit were arrayed in descending order,

separately, for MSAs/PMSAs and for non-metropolitan counties.

3. The Difficult Development Areas are those with the highest ratios cumulative to 20% of the 1990 population of all metropolitan areas and of all non-metropolitan counties.

4. The American Housing Survey data used to calculate the FMRs for New York City were adjusted by eliminating rent-controlled units. The FMRs were recalculated on the basis of the adjusted data. Because FMRs are based on recent mover rents, the FMRs generally reflect market rents rather than rent-controlled rents. In this case, the adjustment had no impact on the FMR.

C. Application of Caps to Qualified Census Tract and Difficult Development Area Determinations

In identifying Qualified Census Tracts and Difficult Development Areas, HUD applied various caps, or limitations, as noted above. For Qualified Census Tracts, section 42(d)(5)(C)(ii)(I) of the Code specifies that the population of eligible census tracts within a metropolitan area cannot exceed 20% of the population of that metropolitan area. Similarly, for census tracts/BNAs located outside metropolitan areas, the population of eligible census tracts/BNAs cannot exceed 20% of the population of the non-metropolitan counties in a State. The cumulative population of metropolitan Difficult Development Areas cannot exceed 20% of the cumulative population of all metropolitan areas and the cumulative population of non-metropolitan Difficult Development Areas cannot exceed 20% of the cumulative population of all non-metropolitan counties.

In applying these caps, HUD established procedures to deal with two issues: (1) How to proceed when the next logical choice for inclusion causes the cumulative area population to exceed the cap, and (2) how to treat small overruns of the caps. The remainder of this section explains the procedures.

1. Next choice causes cumulative population to exceed the cap. In applying the 20% cap to Qualified Census Tracts, HUD did not attempt to break a borderline census tract into smaller areas. Instead HUD looked tract-by-tract down the ranking beyond the excluded tract to see if a smaller tract could be included without exceeding the cap. The approach to Qualified Census Tracts differs from the treatment of difficult development metropolitan areas because of an important difference in how caps affect each of them. Section 42(d)(5)(C)(ii)(I) of the Code sets a simple test for eligibility for Qualified