Summary of Average Income Test (AIT) for Wisconsin

Eligible Projects

For projects in Wisconsin, the Average Income minimum set-aside may be elected on 4% federal and state Housing Tax Credit applications *only* if 100% of the residential units in the project are designated as low income.

Multiple Building Election

On IRS Form 8609, line 8b, Owners of projects with multiple buildings who elect the Average Income minimum set-aside must:

- Make the same election for each building in the project, and
- Elect to treat each building as part of one multiple building project

Income and Rent Limits

Income and Rent Limits for Average Income projects can be found on WHEDA's website (www.wheda.com).

Full Annual Recertifications of Income

Full Annual Recertifications of Income are not required for 100% Housing Tax Credit projects, including those that have elected the Average Income minimum set-aside. However, self-certifications of Household Composition and Student Status must be completed on an annual basis.

Reporting Requirements

In addition to existing reporting requirements, projects electing the Average Income minimum set-aside must report, via Procorem, the following:

- Minimum Set-Aside Qualified Group of Units
- Applicable Fraction Qualified Group of Units
- Units that were redesignated during the reporting period and the reason for the redesignation

The initial designations and any subsequent changes must also be recorded in the resident files as described in the following table:

Designation	Resident File	Procorem
Newly Occupied Unit	• Move-In Tenant Income Certification (MI) • Initial Tenant Income Certification (TIC)	Move In Event
Household Transfer	• Unit Transfer Tenant Income Certification (UT)	Transfer In/Out Event
Permitted by 26 CFR § 1.42-19(d)	• Interim Tenant Income Certification (IR) • Clarification Record or Note to File explaining the specific reason for the redesignation • Any other applicable documentation (i.e. VAWA)	Household Update Event

As of 11/6/2023

Average Income Regulation Summary

The following information should not be relied on for tax, legal, or accounting advice. Please seek the assistance of the professional of your choice.

Qualified Groups of Units

For each taxable year of the Extended Use Period, the owner must identify and report to WHEDA two qualified groups of units: one for the project's Average Income minimum set-aside and one for the project's Applicable Fraction.

Both groups must have an average imputed income designation that does not exceed 60% of CMI. The average is not based on the actual income of the households occupying the units, but the unit designations.

Minimum Set-Aside

A group of low-income units that constitutes 40% or more of the residential units in the project, and for which:

- Each unit in the group is:
  - Income and rent-restricted according to the unit's designation, and
  - Occupied by a household that is income-qualified, and
  - Otherwise meets all other requirements of a low-income unit, and
- The average of the income designations of all of the units in the group does not exceed 60% of CMI.

Applicable Fraction

The Applicable Fraction group includes the same residential units counted in the Average Income minimum set-aside group for the project. However, additional units can be identified by the Owner for the Applicable Fraction group for the project provided that the resulting group has an average imputed income designation that does not exceed 60% CMI.

Although the Applicable Fraction group for a multiple building project must have an Average Income designation of 60% of CMI or less, to meet the federal standard, *individual* buildings are not required to have an Average Income designation that averages 60% of CMI or less.

Unit Designations

Fixed vs Floating

Once qualified as a low-income unit and the initial designation is made by the Owner, designations may float over time. However, changes to a unit's designation must maintain any requirements made in the QAP, Application, Scoring, and/or LURA.

Timing of Designations

Before a unit is first occupied as a low-income unit, the Owner must designate the income- and rent-restrictions for each unit.

Changes in unit designation may occur as permitted by regulation. The Owner must record the new designation and the reason for the change, not later than the end of the taxable year in which the change occurs. Exceptions apply for waived non-compliance. NOTE: Generally, if an occupied unit qualified under a specific designation, that designation cannot be changed upward.

Permitted Changes in Designation

26 CFR § 1.42-19(d) allows Owners to change unit designations for the following reasons:

1. Federally Permitted Changes
   Permission for the change is contained in IRS forms, instructions, or guidance published in the Internal Revenue Bulletin.

2. WHEDA Permitted Changes
   ** WHEDA will update this policy as necessary if additional permitted changes are identified.*

   Other federal housing programs under which the project operates that require redesignation of a unit or household to comply with the rules of that program. For example, projects layered with Section 8, HOME, USDA Rural Development, National Housing Trust Fund, and CDBG.

3. Certain Laws
   The change in designation is required or appropriate to enhance protections contained in the following, as amended:

   - The Americans with Disabilities Act of 1990
   - The Fair Housing Amendments Act of 1988
   - The Violence Against Women Act of 1994
   - The Rehabilitation Act of 1973
   - Any other state, federal, or local law or program that protects tenants and that is identified as a federally- or WHEDA-permitted change.

4. Unit Transfers
   If a current income-qualified tenant moves to a different unit in the project, the unit to which the tenant moves into has its income designation changed to the limitation of the unit from which the tenant is moving from, and the vacated unit takes on the prior limitation of the tenant's new unit. In other words, the two units “swap” designations.

   All other Unit Transfer rules still apply.

5. Restoring Compliance
   Owners may reduce the existing designation of one or more other units in the project, vacant or occupied, to restore compliance with the Average Income requirements, if:

   1) One or more units lose low-income status, or
   2) There is a change in the designation of a unit, and
   3) Either event would cause a previously qualifying group of units to have an average designation that exceeds 60% of CMI.

   When changing an occupied unit to a lower CMI designation:

   1) The current household income *must* be verified to be at or below the applicable income limit for the new, lower CMI designation, and
   2) Gross Rent must be reduced to be at or below the applicable maximum rent for the new CMI designation, and
   3) An Interim Tenant Income Certification (IR) must be completed, including verification of income and assets, student status, and resident signature.

Waivers

WHEDA may, on a case-by-case basis, waive non-compliance with the identification, notification, and recording requirements up to 180 days after *discovery* of the non-compliance. If the non-compliance is ultimately waived, WHEDA will permit the Owner to change the unit designation later than the taxable year in which the change applies within the 180-day period. For Owner-discovered non-compliance, contact your Housing Management Officer (HMO) within 30 days of the discovery to request a waiver.