

Form 8611 (Rev. January 2008), Recapture of Low-Income Housing Credit

Purpose: This is the first circulated draft of the January 2008 revision of Form 8611 for your review and comments. See below for an explanation of the major changes.

TPCC Meeting: None, but may be arranged if requested.

Prior Version: The January 2006 revision of Form 8611 is available at:
<http://www.irs.gov/pub/irs-pdf/f8611.pdf>

Other Products: Circulations of draft tax forms, instructions, notices, and publications are posted at: http://taxforms.web.irs.gov/draft_products.html

Comments: Please email, fax, call, or mail any comments by **June 11, 2007**.

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Memo of Major Changes for Form 8611, Recapture of Low-Income Housing Credit

The instructions have been updated to reflect the latest revision of Form 8586, Low-Income Housing Credit. On page 2, we have revised the instructions for line 1 to state that the Part I designation on Form 8586 only applies to forms with a revision date prior to December 2006. On page 3, under the special rule for electing large partnerships, we have removed specific line designations, as they no longer apply.

Form 1120-A has been obsoleted. For tax years 2007 and later, former filers of Form 1120-A will file Form 1120. On page 3, in the instructions for line 14, we removed the references to Form 1120-A.

On page 3, in the instructions for line 11, we will update the Revenue Ruling to reflect the most up-to-date information available at the time we go to print.

Recapture of Low-Income Housing Credit

▶ **Attach to your return.**

OMB No. 1545-1035

Note: Complete a separate Form 8611 for each building to which recapture applies.

Attachment
Sequence No. **90**

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: Skip lines 1-5 and go to line 8 if recapture is passed through from a flow-through entity (partnership, S corporation, estate, or trust).

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 (see instructions)	4	.	
5 Accelerated portion of credit. Multiply line 3 by line 4	5		
6 Percentage decrease in qualified basis. Express as a decimal amount carried out to at least 3 places (see instructions)	6	.	
7 Amount of accelerated portion recaptured (see instructions if prior recapture on building). Multiply line 5 by line 6. Section 42(j)(5) partnerships, go to line 16. All other flow-through entities (except electing large partnerships), enter the result here and enter each recipient's share in the appropriate box of Schedule K-1. Generally, flow-through entities other than electing large partnerships 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 (see Note above)	8		
9 Enter the unused portion of the accelerated amount from line 7 (see instructions)	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 amount subject to recapture. Add lines 10 and 11	12		
13 Unused credits attributable to this building reduced by the accelerated portion included on line 9 (see instructions)	13		
14 Recapture tax. Subtract line 13 from line 12. If zero or less, enter -0-. Enter the result here and on the appropriate line of your tax return (see instructions). If more than one Form 8611 is filed, add the line 14 amounts from all forms and enter the total on the appropriate line of your return. Electing large partnerships, see instructions	14		
15 Carryforward of the low-income housing credit attributable to this building. Subtract line 12 from line 13. If zero or less, enter -0- (see instructions)	15		

Only Section 42(j)(5) partnerships need to complete lines 16 and 17.

16 Enter interest on the line 7 recapture amount (see instructions)	16		
17 Total recapture. Add lines 7 and 16 (see instructions)	17		

General Instructions

Section references are to the Internal Revenue Code.

Purpose of Form

Use this form if you must recapture part of the low-income housing credit you claimed in previous years because:

- The qualified basis of a building decreased from one year to the next. The decrease may result from a change in the eligible basis, 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.
- You disposed of the building or an ownership interest in it, and you did not post a satisfactory bond or pledge eligible U.S. Treasury securities as collateral. For details on how to avoid recapture on a building disposition, see section 42(j)(6); Form 8693, Low-Income Housing Credit Disposition Bond; and Rev. Proc. 99-11, 1999-2 I.R.B. 14.

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 under 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 and Certification (or predecessor, Form 8609, Low-Income Housing Credit Allocation Certification);
- Form 8609-A, Annual Statement for Low-Income Housing Credit (or predecessor, 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.


Recapture does not apply if:

- You disposed of the building or an ownership interest in it and you posted a satisfactory bond or pledged eligible U.S. Treasury securities as collateral (for details, see section 42(j)(6); Form 8693; and Rev. Proc. 99-11);
- You disposed of not more than 33 $\frac{1}{3}$ % in the aggregate of your ownership interest in a building that you held through a partnership, or you disposed of an ownership interest in a building that you held through a partnership to which section 42(j)(5) applies or through an electing large partnership;
- 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;
- You correct a noncompliance event within a reasonable period after it is discovered or should have been discovered;
- The qualified basis is reduced because of a casualty loss, provided the property is restored or replaced within a reasonable period.

Recordkeeping

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

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 all Forms 8586 (before reduction due to the tax liability limit) you have filed. Prior to the December 2006 revision of Form 8586, the credits before reduction due to the tax liability limit were reported in Part I. 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 8609-A (or predecessor, Schedule A (Form 8609)) was completed.

Form

Line 2 Worksheet (*Line reference is to Form 8609-A (or predecessor, Schedule A (Form 8609).)

a Enter the amount from line 10*	a
b Multiply a by 2	b
c Enter the amount from line 11*	c
d Subtract c from b	d
e Enter decimal amount figured in step 1 of the instructions for line 14*. 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* by line 15*. 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

Line 4. Enter the credit recapture percentage, expressed as a decimal carried to at least 3 places, from the table below:

IF the recapture event occurs in . . .	THEN enter on line 4 . . .
Years 2 through 11333
Year 12267
Year 13200
Year 14133
Year 15067

Line 6. Enter the percentage decrease in qualified basis during 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. Compare 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 1.000 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 1.000 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 7. If there was a prior recapture of accelerated credits on the building, do not recapture that amount again as the result of the current reduction in qualified basis. The following example demonstrates how to incorporate into the current (Year 4) recapture the first year (Year 1) accelerated portion as a result of a prior year (Year 2) recapture event.

Line 9. Compute the unused portion of the accelerated amount on line 7 by:

- Step 1. Totaling the credits attributable to the building that you could not use in prior years.*
- Step 2. Reducing the result of step 1 by any unused credits attributable to additions to qualified basis.
- Step 3. Multiplying the result of step 2 by the decimal amount on line 4.
- Step 4. Multiplying the result of step 3 by the decimal amount on line 6.
- Step 5. Enter the result of step 4 on line 9.

*Generally, this is the amount of credit reported on line 1 of this Form 8611 reduced by the total low-income housing credits allowed on Form 8586 or Form 3800 for each year.

Special rule for electing large partnerships. Enter zero on line 9. An electing large partnership is treated as having fully used all prior year credits.

Line 11. Compute the interest separately for each prior tax year for which a credit is being recaptured. Interest 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 (a) the due date (not including extensions) of the return for the recapture year, or (b) 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. 95-17, 1995-1 C.B. 556. The interest rate in effect through March 31, 2008, is shown in Rev. Rul. 2007-XX, 2007-XX I.R.B. XXXX. For periods after March 31, 2008, 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.

Line 13. Subtract the amount on line 9 from the total of all prior year unused credits attributable to the building (Step 1 of the line 9 instruction above). Enter the result on line 13.

Line 14.

For information on how to report the recapture tax on...	See the instructions for the...
Form 1040	“Total tax” line in the Instructions for Form 1040
Form 1120	“Other taxes” line in the Instructions for Forms 1120

Special rule for electing large partnerships. Subtract the credit shown on Form 8586 from the total of the line 14 amounts from all Forms 8611. Enter the result (but not less than zero) on Form 1065-B, Part I, line 26.

Note. You must also reduce the current year low-income housing credit, before entering it on Schedules K and K-1, by the amount of the reduction to the total of the recapture amounts.

Line 15. Carry forward the low-income housing credit attributable to this building to the next tax year. Report any carryforward on the carryforward line of the Form 3800 for the next tax year. See the instructions for Form 3800 for details on how to report the carryforward of unused credits.

Lines 16 and 17. Only section 42(j)(5) partnerships complete these lines. This is a partnership (other than an electing large 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.

Line 7—Example. \$2,700 of accelerated portion of low-income housing credit spread over a 10-year period and not falling below the minimum set-asides for the building. Also, there was a 20% reduction in qualified basis in Year 2 and 30% in Year 4.				
	Year 1	Year 2	Year 3	Year 4*
Low-income housing credit	\$270	\$216 (\$270 × .8 (20% reduction in qualified basis))	\$270	\$189 (\$270 × .7 (30% reduction in qualified basis))
Recapture of Year 1 low-income housing credit		\$18 (\$270 × .333 × .2 (20% reduction in qualified basis))		\$9 (\$27 (\$270 × .333 × .3 (30% reduction in qualified basis) minus \$18 Year 2 recapture))

* You will have to complete the rest of the form to figure the recapture as the result of the current year reduction in basis as it affects the Year 2 and Year 3 credit.

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 16. 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.

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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping . . . 8 hr., 21 min.

Learning about the law or the form . . . 1 hr.

Preparing and sending the form to the IRS . . . 1 hr., 10 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.