

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Form 8823,
Low-Income Housing Credit Agencies Report
of Noncompliance or Building Disposition
OMB Control Number 1545-1204

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC) Section 42(m)(1)(B)(iii) requires that state housing credit agencies must notify the IRS when a building for which a low-income housing credit has been allocated does not meet the provisions of the low-income housing credit. Form 8823 is used by housing credit agencies to fulfill their responsibility under section 42(m)(1)(B) (iii) to notify the IRS of noncompliance with the low-income housing tax credit provisions or any building disposition.

2. USE OF DATA

The IRS uses the information from the housing credit agencies to determine whether the low-income housing credit is being correctly claimed and whether there is any credit recapture.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS has no plans to offer electronic filing at this time because of the low volume compared to the cost of electronic enabling.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. The Agency will continue to as applicable find ways to reduce the burden on small businesses or other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Consequences of less frequent collection would result in the IRS being unable to monitor

compliance with the Federal tax rules related to the low-income housing credit, under section 42, thereby engendering the inability of the IRS to ensure accurate and timely compliance of the low-income housing tax credit or building disposition.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

In response to the *Federal Register* notice dated April 09, 2024 (89 FR 24891), the IRS received no comments during the comment period regarding Form 8823.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No gifts or payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master file (BMF)” and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 – Electronic Filing Records; IRS 24.030 – Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA’s can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Form 8823 is used by housing credit agencies to fulfill their responsibility under section 42(m)(1)(B)(iii) to notify the IRS of noncompliance with the low-income housing tax credit

provisions or any building disposition.

The estimated burden is shown below:

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
§42	Form 8823	14,474	1	14,474	15.16	219,426
Totals		14,474		14,474		219,426

The following regulation imposes no additional burden. Please continue to assign OMB number 1545-1204 to this regulation:

1.42-5

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

From our Federal Register notice, dated April 09, 2024, no comments on the estimates of capital or start-up costs and cost operation, maintenance, and purchase of services to provide were received. However, to ensure more accuracy and consistency across its information collections, the IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, the IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized startup expenses, operating and maintenance expenses, and distribution of the product that collects the information. These costs do not include any activities such as taxpayer assistance and enforcement.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries, and other outlets. The result is the government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form and Instructions 8823	\$29,249	+	\$0	=	\$29,249
Grand Total	\$29,249				\$29,249
Table costs are based on 2023 actuals obtained from IRS Chief Financial Office and Media and Publications					

15. REASONS FOR CHANGE IN BURDEN

Changes to the burden estimates of Form 8823 are due to the decrease in filers based on the most recent filing data, from 20,000 to 14,474 responses and an decrease in burden hours from 303,200 to 219,426.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	14,474	0	0	-5526	0	20,000
Annual Time Burden (Hrs.)	219,426	0	0	-83774	0	303,200

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form expires as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.