1SUPPORTING STATEMENT
Internal Revenue Service
Form 8609, Low-Income Housing Credit Allocation and Certification,
Form 8609-A, Annual Statement for Low-Income Housing Credit
OMB Control Number 1545-0988

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue Code (IRC), Section 38 lists the allowed general business credits that can be claimed for a taxable year. IRC, Section 42 allows owners of certain low-income residential rental properties a tax credit equal to the applicable percentage of the qualified basis of each qualified low-income building.

Form 8609 is used by owners of residential low-income rental buildings; to obtain a housing credit allocation from their specific housing credit agency. To qualify for this credit, the owner of the building(s) applies to the state housing credit agency for an allocation of the state's ceiling of the low-income housing credit.

Form 8609-A is completed and filed by low-income building owners annually during the 15-year compliance period, whether a low-income housing credit is claimed for the tax year.

In 2018, Congress revised section 42(g) to add a third minimum set-aside: the average income test. REG-119890-18 (85 FR 68816), published October 30, 2020, contained proposed regulations setting forth guidance on the average income test under section 42(g)(1)(C) of the Internal Revenue Code (Code) for purposes of the low-income housing credit.

On October 12, 2022, the Treasury Department and the IRS published average-income-test final regulations (TD 9967) in the ***Federal Register*** (87 FR 61489) (2022 final regulations). In the same Treasury Decision, the Treasury Department and the IRS published temporary regulations providing recordkeeping and reporting requirements needed to facilitate administrability of, and compliance with, the 2022 final regulations (temporary regulations).

TD 10036 (90 FR 46756), published September 30, 2025, contains final regulations setting forth recordkeeping and reporting requirements for the average income test under section 42(g)(1)(C) of the Internal Revenue Code.

This collection has been revised to comply with updated recordkeeping requirements and reporting burden created through the final regulations (TD 10036). This request is being submitted to update the current OMB approval records.

2. USE OF DATA

The data on these forms will be used by a taxpayer to obtain a housing credit allocation from the housing credit agency. In addition, the form contains the first-year certification completed by building owners with respect to the first year of the credit period. The Internal Revenue Service (IRS) uses the information to verify compliance with the requirements for the low-income housing credit.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic filing of Forms 8609 and 8609-A is currently available.

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. There will be minimal if any impact to small businesses. The forms can be filed electronically, which further reduces any burden to small businesses.

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

Consequences of less frequent collection on federal programs or policy activities would consist of decreased amount of taxes collected by the IRS, inaccurate and untimely filing of tax returns, and an increase in tax violations. The information is used by the Service to compute and verify the tax credit claimed for low-income housing. Failure of the IRS to obtain this information will hinder the IRS from meeting its mission.

In general, the substantive final regulations provide significant flexibility with respect to satisfying the average income test set-aside, identifying qualifying groups of units for use in the applicable fraction determination, and changing the imputed income limitation designations of residential units. This increased flexibility is in response to taxpayer comments on the proposed regulations, including taxpayer complaints about burdens in the proposed regulations.

The Treasury Department and IRS therefore believe that emergency processing and immediate approval are in the public interest. Emergency processing and immediate approval will allow expedited reliance on the paperwork requirements contained in the temporary regulations—and thus on the flexible substantive rules that the final regulations provide under the average income set-aside.

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

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding Forms 8609 and 8609-A.

In response to the *Federal Register* notice dated November 14, 2022, (87 FR 68232). We received no comments during the comment period regarding these forms.

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

No 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)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs 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

Burden associated with specific elections are identified on the attached burden table and the total burden identified is:

Form	# Respondents	# Responses Per Respondent	Total Annual Responses	Hours Per Response	Total Burden
8609	15,000	1	15,000	18.29	246,915
Line 11 Worksheet	1,500*	1	1,500*	1.70	2,550
8609-A	15,000	1	15,000	11.03	165,450
TD 10036 (26 CFR 1.42-19)**	300	10	3,000	4.45	13,350
Total	30,300		33,000		428,265

***These responses are included in the Form 8609 but are broken down separately here for burden calculations.**
****The regulation is only expected to affect a subset of the total 8609 filers.**

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

From our Federal Register notice dated November 14, 2022, no public comments were received on the estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. As a result, estimates of these cost burdens are considered negligeable.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Product	Aggregate Cost per Product (factor applied)		Printing and Distribution		Government Cost Estimate per Product
Form 8609	17.799	+	0	=	17,799
Form 8609 Instructions	4,854	+	0	=	4,854
Form 8609-A	17,799	+	0	=	17,799
Form 8609-A Instructions	4,854	+	0	=	4,854
Grand Total	**44,706**		**0**		**44,706**
Table costs are based on 2024 actuals obtained from IRS Chief Financial Office and Media and Publications					

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the burden recently approved.

ICR Summary of Burden:

	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	33,000	0	0	0	0	33,000
Annual Time Burden (Hr)	428,265	0	0	0	0	428,265

We are submitting this request to update a currently approved collection.

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

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets 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.