April 3, 2020

Ms. Nicole Cimino
Office of Chief Counsel Office of Tax Policy
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

Mr. Michael Novey
Associate Tax Legislative Counsel
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Ms. Cimino and Mr. Novey:

On behalf of LeadingAge, we urge the Internal Revenue Service and the Department of the Treasury to support resources to protect residents and providers of Low Income Housing Tax Credit communities from the devastating fallout of the coronavirus. Approximately 26.2% of the nation's 3.2 million Low Income Housing Tax Credit homes include someone who is 62 or older.

Between the nation's severe affordable housing shortage, the revival of HUD's Section 202 Housing for the Elderly program with an emphasis on leveraging of other resources, and the expansion of HUD's Rental Assistance Demonstration to Section 202 communities with Project Rental Assistance Contracts, the senior affordable housing world is more reliant than ever on a resilient Housing Credit program.

Many of the more than 5,000 aging-focused organizations represented by LeadingAge serve older adults through the Housing Credit program. Together, our members serve millions of people every day. Alongside our members and 38 state partners, we address critical issues by blending applied research, advocacy, education, and community-building.

Congressional Support: Resident and Provider Relief
While the March 27, CARES Act protects Housing Credit residents from eviction for nonpayment of rent for 120 days, it does not protect them from very large rent bills due after the eviction moratorium ends. Residents should not be evicted for nonpayment of rent within the 120 days' protection provided by the CARES Act, or any time afterwards because of COVID-19.

Nor does the CARES Act protect housing providers who must operate Housing Credit communities with potentially drastically reduced rents from residents. While older adult households may have less income from wages than non-older adult households, their COVID-19-related non-housing expenses are rapidly increasing. Missed rent checks by residents will lead to budgetary shortfalls that will make it harder for providers to continue their critical operations.

To provide immediate assistance to Housing Credit properties, LeadingAge is also urging Congress for immediate statutory actions in the form of one-year extensions for three key deadlines: 10% test deadlines, placed in service deadlines, and rehabilitation expenditure deadlines.

We hope the IRS and Treasury join LeadingAge in urging Congress to provide the resources and tools residents and providers need to see them through this pandemic.

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Need for IRS Guidance
We also urge the IRS and Treasury to provide immediate guidance providing the following accommodations, as recommended by the National Council of State Housing Agencies, which are needed to allow the Housing Credit community to adapt as best is possible during this time:

- Provide a 12-month extension of the 10% Test deadline for carryover allocations as required by IRC Section 42(h)(1)(E)(ii) and IRS regulation 1.42-6.
- Provide a 12-month extension of the 24-month minimum rehabilitation expenditure deadline as required by IRC Section 42(e)(3) and IRC Section 42(e)(4).
- Provide a 12-month extension of the placed in service deadline as required in IRC Section 42(h)(1)(E)(i).
- Provide at minimum a 12-month extension of the 25-month rehabilitation period currently allowed under IRS Revenue Procedures 2014-49 and 2014-50 to properties that suffered a casualty loss due to a presidentially declared major disaster in the 25-month period prior to the onset of COVID-19. State Housing Credit agencies should be allowed to set restrictions within this period.
- Provide a 12-month extension of the year-end deadline for property restoration for any property that suffers a casualty loss not associated with a major disaster during 2020 (until December 31, 2021). State Housing Credit agencies should be allowed to set restrictions within this period.
- Provide a 12-month moratorium on both physical inspections and tenant file reviews as required by IRS regulation 1.42-5. State Housing Credit agencies should continue to monitor emergency work orders during this time, and should be allowed to continue or resume inspections depending on their assessment of the situation in their state and their ability to do so, but there should be no penalty for states or owners if inspections are not completed during this time.
- Provide a 12-month moratorium on tenant income recertification requirements. State Housing Credit agencies should be allowed to continue or resume requiring property managers to conduct recertifications depending on their assessment of the situation in their state and their ability to do so.
- Provide a 12-month extension for all open noncompliance corrective action periods. State Housing Credit agencies should be allowed to reinstate deadlines depending on their assessment of the situation in their state and their ability to do so.
- Suspend the yet-to-be implemented IRS regulation 1.42-5 which will increase the number of required compliance monitoring physical inspections even further than required under current regulations and exacerbate the inspection backlog.
- Provide guidance clarifying that the temporary closure of property amenities and common space facilities during the duration of the crisis (with the exception of laundry facilities) will not negatively impact a property's eligible basis and result in loss of Credits.

Please reach out to Linda Couch, lcouch@leadingage.org, with any questions or for additional information.

Thank you for considering LeadingAge's requests.

Sincerely,

Katie Smith Sloan
President and CEO