TENNESSEE HOUSING DEVELOPMENT AGENCY
Community Investment Tax Credit
("Community Investment Tax Credit" or "CITC")

GUIDANCE

INTRODUCTION

Financial institutions may obtain a credit against the sum total of taxes imposed by the Franchise Tax Law and the Excise Tax Law when qualified loans, qualified investments, grants or contributions are extended to eligible housing entities ("Eligible Housing Entity") who engage in eligible low income housing activities ("Eligible Activity"). The amount of the CITC may be applied one time, based on the total amount of the loan, investment, grant, or contribution; or may be applied annually for qualified loans and qualified low rate loans based on the unpaid principal balance of the loan.

The amount of the CITC is as follows:

1. Five percent (5%) of a qualified loan or qualified long term-term investment; *OR* three percent (3%) annually of the unpaid principal balance of a qualified loan as of December 31 of each year for the life of the loan, *OR* fifteen (15) years, whichever is earlier.

2. Ten percent (10%) of a qualified low rate loan, grant, or contribution; *OR* five percent (5%) annually of the unpaid principal balance of a qualified low rate loan as of December 31 of each year for the life of the loan, *OR* fifteen (15) years, whichever is earlier.

Unused CITC applied one time may be carried forward for a period of 15 years after the tax year in which the CITC originated. Unused CITC that are applied annually may not be carried forward beyond the tax year in which the CITC originated.

The Tennessee Housing Development Agency ("THDA") and the Tennessee Department of Revenue ("TDoR") cooperatively administer CITC. THDA takes the application and determines whether the proposed housing entity, proposed activity, and proposed loan or investment are eligible to allow the eligible financial institution to receive the CITC. TDoR determines the amount of the CITC and makes the CITC award to the eligible financial institution. The Eligible Housing Entity is obligated to maintain records as requested by THDA to ensure that the Eligible Activity approved in the application occurs. Failure of the Eligible Housing Entity to provide and maintain the Eligible Activity will not cause the eligible financial institution to lose the CITC, but may cause the entity to become ineligible to subsequently participate in CITC.

ELIGIBLE HOUSING ENTITIES

The following entities may qualify as Eligible Housing Entities:

1. Tennessee nonprofit corporation with an Internal Revenue Code 501(c)(3) status ("Nonprofit")

2. An entity created and controlled by a Nonprofit Eligible Housing Entity that engages in Eligible Activity on behalf of the Nonprofit ("Nonprofit Entity")

3. A wholly owned subsidiary of a Nonprofit Eligible Housing Entity that engages in Eligible Activity on behalf of the Nonprofit ("Nonprofit Subsidiary")

4. Public Housing Authorities ("PHA")

5. Development Districts ("DD")

6. Tennessee Housing Development Agency ("THDA")

ELIGIBLE HOUSING ENTITY REQUIREMENTS

To be eligible a housing entity must meet all of the requirements for type of entity as described below ("Eligible Housing Entity"):

1. Nonprofits

   a. Nonprofit corporations must be organized, existing and in good standing under the Tennessee Nonprofit Corporations Act (T.C.A. Section 48-51-101, et seq.) for a period of at least two (2) years prior to the date of application, with an Internal Revenue exemption as a 501(c)(3) entity on its own or by virtue of a group designation letter of a parent nonprofit. The nonprofit with the group designation letter must also meet all the requirements to be designated as an Eligible Housing Entity.

      (i) The Nonprofit must: (1) not be formed by one or more individuals or for-profit entities for the principal purpose of participation in CITC; (2) not be controlled by a for-profit organization; and (3) not have any staff member, officer, or member of the board of directors who will materially participate, directly or indirectly, in the proposed housing activity as or through a for- profit entity; and

      (ii) The Nonprofit must be engaged in the business of the provision of affordable housing opportunities for low income households in Tennessee for a period of at least two years prior to the date of application; and

      (iii) The Nonprofit must materially participate (regular, continuous, and substantial on-site involvement) in the proposed Eligible Activity for a period of at least five years from the date of CITC approval.

   b. Nonprofit limited liability companies must be organized, existing and in good standing under the Nonprofit Limited Liability Company Act of 2001 (T.C.A. Section 48-101-701) or under the Tennessee Revised Nonprofit Limited Liability Company Act (T.C.A. Section 48-101-801), be disregarded as an entity for federal income tax purposes, and have a sole member that qualifies as a Nonprofit Eligible Housing Entity.

2. Nonprofit Entity

   a. The Nonprofit Entity must be created and controlled by a Nonprofit that meets all requirements as an Eligible Housing Entity.

   b. The Nonprofit Entity must be engaged in an Eligible Activity on behalf of the Nonprofit that created and controls it.

   c. The Nonprofit Entity must be organized, existing and in good standing under the laws of Tennessee, but need not, itself, be an Eligible Housing Entity

3. Nonprofit Subsidiary

   a. The Nonprofit Subsidiary must be wholly owned by a Nonprofit that meets all requirements as an Eligible Housing Entity.

   b. The Nonprofit Subsidiary must be engaged in an Eligible Activity on behalf of the Nonprofit that is its sole owner.

   c. The Nonprofit Subsidiary must be organized, existing and in good standing under the laws of Tennessee, but need not, itself, be an Eligible Housing Entity

4. PHAs:

   a. A PHA must be duly created and validly existing under the Housing Authorities Law (T.C.A. Section 13-20-101, et seq.).

      (i) The PHA must materially participate (regular, continuous, and substantial on-site involvement) in the proposed Eligible Activity for a period of at least five years from the date of CITC approval;

3. DDs:

   a. A DD must be duly created and validly existing under the Development District Act of 1965 (T.C.A. Section 13-14-101, et seq.).

   b. The DD must materially participate (regular, continuous, and substantial on-site involvement) in the proposed Eligible Activity for a period of at least five years from the date of CITC approval;

4. Tennessee Housing Development Agency:

   a. THDA, duly created and validly existing under the Tennessee Housing Development Agency Act (T.C.A. Section 13-23-101, et seq.).

ELIGIBLE ACTIVITIES

The following activities may be considered eligible housing activities ("Eligible Housing Activities"):

1. Activities that create or preserve affordable housing for low income Tennesseans:

   a. New Construction-Rental. New construction of multifamily or single family affordable housing that is rented to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at rents that do not exceed 30% of annual gross household income.

   b. New Construction-Homeownership. Construction of new single family affordable housing that is sold to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at a price that does not require the household to spend more than 30% of annual gross household income for monthly loan payments, including insurance and taxes.

   c. Rehabilitation-Rental. Rehabilitation of existing multifamily or single family affordable housing that is rented to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at rents that do not exceed 30% of monthly gross household income.

   d. Rehabilitation-Homeownership. Rehabilitation of existing single family affordable housing that is sold to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at a price that does not require the household to spend more than 30% of annual gross household income for monthly loan payments, including insurance and taxes.

   e. Rehabilitation-Existing Homeowner. Rehabilitation of single family housing units owned by households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located. If a loan to the household is involved, the monthly loan payments, including insurance and taxes, do not exceed 30% of monthly gross household income.

f. Conversion. Conversion of an existing dwelling or building to multifamily or single family affordable housing that is rented or sold to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at rents or for a sale price that do not exceed the limits indicated above.

g. Acquisition. Acquisition of a housing unit, dwelling or land upon which a multifamily or single family affordable housing unit will be located that is rented or sold to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at rents or for a sale price that do not exceed the limits indicated above.

h. Land. Land upon which a multifamily or single family affordable housing unit will be located that is rented or sold to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at rents or for a sale price that do not exceed the limits indicated above.

2. Activities that assist low income Tennesseans in obtaining safe and affordable housing:

a. Down Payment Assistance. Down payment assistance, as a grant or a loan, to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located for the purchase of newly-constructed or rehabilitated affordable single family housing units at a price that does not require the household to spend more than 30% of annual gross household income for monthly loan payments, including insurance and taxes.

b. Rental Assistance. Rental assistance, as a grant or a loan, to households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located for the rental of newly-constructed or rehabilitated affordable housing units at rents that do not exceed 30% of monthly gross household income.

c. Assistance Payments. Assistance payments, as a grant or a loan, for rental housing deposits and/or utility deposits for households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located at rents that do not exceed 30% of monthly gross household income.

d. Homebuyer Education. Pre-purchase homebuyer education for households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located.

e. Counseling Services. Financial literacy or counseling services for households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located.

f. Savings Program. Individual Development Account (“IDA”) matched savings programs for homeownership for households whose income is at or below eighty percent (80%) of the area median income, based on family size, for the county in which the housing is located. IDAs are defined as accounts set up at a financial institution by an agency or entity on behalf of a potential homeowner for the purpose of the accumulation of monies to be used as a down payment on the purchase of an affordable housing unit.

g. Supportive Services. Supportive services tied to housing including, but not limited to, services for the elderly, developmentally, physically or mentally disabled, youth transitioning from foster care, homeless and other targeted groups.

3. Activities that build the capacity of an eligible nonprofit organization to provide housing opportunities for low-income Tennesseans (Only Nonprofits, Nonprofit Entities and Nonprofit Subsidiaries that meet the requirements to be an Eligible Housing Entity are eligible to provide this type of Eligible Activity):

    a. Operational Support. Loans or grants supporting operating expenses of an eligible nonprofit to the extent the operating expenses are directly related to carrying out Eligible Housing Activities. The eligible nonprofit must explain in the project narrative how the loan or grant will help accomplish Eligible Housing Activities.

    b. Refinance of Non-Qualified Loans. Refinance existing debt of an eligible nonprofit, that is NOT a qualified loan, a qualified low-rate loan, or qualified long term investment with a qualified loan, a qualified low-rate loan, or qualified long-term investment, if the cash flow savings are used by the qualified nonprofit for Eligible Housing Activities as identified above and if the financial institution claiming CITC did not previously claim CITC under T.C.A. Section 67-4-2109(h)(1)(A) or T.C.A. Section 67-4-2109(h)(2)(A) in connection with the original debt. The eligible nonprofit must explain in the Project Narrative how the cash flow savings will help accomplish Eligible Housing Activities. A financial institution may refinance its own, higher cost debt that is not a qualified loan, a qualified low-rate loan, or a qualified long term investment or a different financial institution may provide the refinancing.

    c. Refinance existing debt of an eligible nonprofit that is a qualified loan with a qualified low-rate loan or qualified long-term investment, if the cash flow savings are used by the eligible nonprofit for Eligible Housing Activities as identified above and if the financial institution claiming the CITC did not previously claim CITC under T.C.A. Section 67-4-2109(h)(1)(A) or T.C.A. 67-4-2109(h)(2)(A) in connection with the original loan. The eligible nonprofit must explain in the Project Narrative how the cash flow savings will help accomplish Eligible Housing Activities. A financial institution may refinance its own or another financial institution's qualified loan if the previous credits were taken as annual credits but may not refinance its own or another financial institution's qualified loan if one-time credits were taken on the original loan.

    d. Investment in technology. Purchase of computers, software, or other technology to the extent that the purchased technology is directly related to carrying out Eligible Housing Activities. The eligible nonprofit must explain in the project narrative how the investment in technology will help accomplish Eligible Housing Activities.

    e. Training. Support for eligible nonprofits providing training or receiving training. The eligible nonprofit must explain in the project narrative how the training will help accomplish Eligible Housing Activities.

    f. Technical Assistance (TA). Funds for eligible nonprofits who provide TA to the extent that the TA is directly related to carrying out Eligible Housing Activities. The eligible nonprofit must explain in the project narrative how the technical assistance will help accomplish Eligible Housing Activities.

4. Other affordable housing-related activities including, but not limited to:

    a. Emergency mortgage assistance.

    b. Home improvements for handling accessibility.

    c. Activities to help maintain housing and prevent homelessness.

    d. Post-purchase, foreclosure prevention counseling.

e. Activities to promote public awareness about affordable housing.

f. Research.

g. Any other affordable housing activities approved by the THDA Executive Director and the Commissioner of TDoR.

OTHER REQUIREMENTS

1. Low income Tennesseans are defined as those with income that is at or below 80 % of the area median income (AMI) as adjusted for family size. Applicable income limits are the current income limits produced and defined by the Department of Housing and Urban Development for the Section 8 Programs. Tennessee limits may be found at www.huduser.org/datasets/il.html. The definition of income may be found in Attachment A.

2. Rent limits are based on the Low Income (80% AMI) limits as established by HUD for the Section 8 Programs as described above. Rent limits should be calculated according to instructions found in Attachment B. All amounts required to be paid to a landlord should be considered when assessing rent limits. Rent limits include all utilities. Utilities paid by tenants should be subtracted (using applicable utility allowances) from the rents provided to determine the maximum allowable rents. Utility allowances may be obtained from the local public housing authority or by contacting THDA.

3. Projects should remain affordable for a minimum of 5 years following the date of project completion.

INELIGIBLE ACTIVITIES

New construction, rehabilitation, conversion, acquisition, or financing of dormitories, nursing home facilities, residential treatment centers, convalescent facilities, and hospice facilities.

QUALIFIED FUNDING

Participating financial institutions may qualify for CITC for extending the following ("Qualified Funding") to Eligible Housing Entities:

1. Qualified loans defined as a loan that is at least 2% below the prime rate over the life of the loan;

2. Qualified low-rate loans defined as a loan that is at least 4% below the prime rate over the life of the loan;

3. Qualified long term investments defined as equity investments where repayment is not expected or where repayment does not begin until at least 5 years from the date of the investment; or grants or contributions as determined by THDA in its sole discretion. Grants or contributions may include, without limitation, cash or the value of contributed real property.

CERTIFICATION AND REVIEW PROCESS

THDA will certify that a financial institution's funding qualifies as eligible for CITC by confirming that the entity applying as an Eligible Housing Entity meets eligibility requirements, that the proposed activities are eligible and that the funding provided meets the requirements of Qualified Funding. THDA will review applications as they are submitted. THDA reserves the right to require additional information at any time in its sole discretion as part of evaluating an application. No application evaluation will be considered complete unless and until THDA receives all materials and information deemed necessary in its sole discretion.

Once THDA determines that an application demonstrates an Eligible Housing Entity proposing an Eligible Activity with Qualified Funding from a qualified financial institution, THDA will provide a Certificate of Contribution for Tax Credit to TDoR. TDoR will then determine the amount of CITC to be awarded to the financial institution. If the Eligible Housing Entity does not fulfill its obligations with respect to the Eligible Activity, the financial institution receiving CITC will retain the awarded CITC.

Following award of CITC, THDA will monitor progress of the Eligible Housing Entity regarding the Eligible Activity primarily through progress and completion reports the Eligible Housing Entity is required to submit to THDA. THDA, in its sole discretion, may elect to conduct other types of reviews. THDA will continue reviews for as long as THDA, in its sole discretion, deems necessary for the Eligible Activity.

INELIGIBILITY

An Eligible Housing Entity that fails to comply with CITC requirements, including without limitation, failing to carry out the Eligible Activity for the requisite time period or failing to provide all reports and information as THDA, in its sole discretion, may require may be deemed by THDA, in its sole discretion, to be ineligible to participate in the CITC Program for a period not to exceed 36 months.

Financial institutions that make Qualified Funding available to entities THDA has deemed to be ineligible, will not be eligible for CITC with respect to that funding.

REQUIRED DOCUMENTATION TO BE SUBMITTED AT THE TIME OF APPLICATION

1. Certificate of Contribution for Tax Credit Application form, fully completed and fully executed is required for each CITC application.

2. Project Narrative forms describing the proposed housing or housing related activity are required for each CITC application. The Project Narrative form may be found on THDA's website at http://www.thda.org/DocumentCenter/Home/View/91.

3. Nonprofit corporations, nonprofit limited liability companies organized, existing, and in good standing under the Nonprofit Limited Liability Company Act of 2001 (T.C.A. Section 48-101-701) or nonprofit limited liability companies organized, existing, and in good standing under the Tennessee Revised Nonprofit Limited Liability Company Act (T.C.A. Section 48-101-801) shall submit, in addition to the items specified in 1 and 2 above, a Certificate of Existence from the Tennessee Secretary of State dated no more than 30 days prior to the date of application submission and IRS documentation designating the nonprofit as a 501(c)(3)entity.

4. Nonprofit Entities shall submit (in addition to the items specified in 1 and 2 above) a Certificate of Existence from the Tennessee Secretary of State dated no more than 30 days prior to the date of application submission, IRS documentation designating the Nonprofit Entity as a 501(c)(3)entity or IRS documentation designating the Nonprofit that created and controls the Nonprofit Entity as a 501(c)(3) entity, materials that demonstrate that the Nonprofit that created and controls the Nonprofit Entity meets all requirements of an Eligible Housing Entity, materials that demonstrate that the Nonprofit Entity is engaged in an Eligible Activity on behalf of the Nonprofit that created and controls it.

5. Nonprofit Subsidiaries shall submit (in addition to the items specified in 1 and 2 above) a Certificate of Existence from the Tennessee Secretary of State dated no more than 30 days prior to the date of application submission, IRS documentation designating the Nonprofit Subsidiary as a 501(c)(3)entity or IRS documentation designating the Nonprofit that is the sole owner of the Nonprofit Subsidiary as a 501(c)(3) entity, materials that demonstrate that the Nonprofit that is the sole owner of the Nonprofit Subsidiary meets all requirements of an Eligible Housing Entity, materials that demonstrate that the Nonprofit Subsidiary is engaged in an Eligible Activity on behalf of the Nonprofit that is its sole owner.

6. Public Housing Authorities shall submit, in addition to the items specified in 1 and 2 above, a Certificate of Existence from the Tennessee Secretary of State dated no more than 30 days prior to the date of application submission.

7. Evidence of Qualified Funding closed or delivered, including without limitation, a copy of the promissory note upon loan closing or documentation that the proposed investment was made, all as required by THDA in its sole discretion.

8. Any other documentation determined necessary by THDA, in its sole discretion, to determine the eligibility of the entity, the activity, and the funding.

REQUIRED REPORTS

Progress reports, with form and substance as required by THDA in its sole discretion, shall be submitted by the Eligible Housing Entity to THDA detailing progress on the Eligible Activity. The reports shall be submitted by January 31st of each year on THDA's Project Progress forms. Progress Reports shall be submitted annually until the Eligible Activity is completed. The Progress Report form may be found on THDA's website at http://www.thda.org/DocumentCenter/Home/View/93.

Upon completion of the Eligible Activity, the Eligible Housing Entity shall submit a Completion Report, to THDA with form and substance as required by THDA in its sole discretion, by January 31st of the year following completion. The Completion Report may be found on THDA's website at http://www.thda.org/DocumentCenter/Home/View/92.

Upon request, the Housing Entity shall provide to THDA such additional information, documentation, or materials, with form and substance as THDA may require in its sole discretion.

APPLICATION PROCESS

1. The applicant for status as an Eligible Housing Entity and the financial institution requesting CITC shall complete the Certificate of Contribution for Tax Credit form and the Project Narrative form, both of which may be obtained from the THDA or TDoR websites.

2. Forms must be signed and dated by authorized representatives of the applicant for status as an Eligible Housing Entity and the financial institution as provided on the relevant form.

3. All applicants shall submit documentation as specified above.

4. THDA will review applications in the order they are received and will request additional information as determined necessary in THDA's sole discretion.

5. If THDA determines that the applicant is an Eligible Entity proposing an Eligible Activity with a financial institution providing Qualified Funding, THDA will provide the necessary certification to TDoR.

6. Following TDoR review, TDoR will determine the amount of CITC to be made available and will inform the financial institution and THDA of the amount of CITC.

APPLICATION SUBMISSION

Completed applications may be submitted via email to: CITC@thda.org or the applications may be mailed to the following address:

Tennessee Housing Development Agency
Community Investment Tax Credit Program
Attn: Toni Shaw, Community Programs Division
Andrew Jackson Building
502 Deaderick Street, 3rd Floor
Nashville, TN 37243
615-815-2200 (office)

Questions and/or comments may be directed to:

Toni Shaw
Housing Program Manager
615-815-2034 (office)
tshaw@thda.org (e-mail)

ATTACHMENT A

COMMUNITY INVESTMENT TAX CREDIT PROGRAM

INCOME DEFINITIONS

ANNUAL INCOME

The Community Investment Tax Credit Program uses the income definitions of the Section 8 Rental Assistance Program to determine *gross* annual income in order to determine the eligibility of a household. The income of the household to be reported, for purposes of eligibility is the sum of the annual gross income of the beneficiary, the beneficiary's spouse, and any other household member residing in the home or rental unit. Annual gross income is "anticipated" for the next 12 months, based upon current circumstances or known upcoming changes, minus certain exclusions.

Gross Annual Income means all amounts, monetary or not, which:

1. Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other household member;

2. Are anticipated to be received from a source outside the household during the 12-month period following admission or annual reexamination effective date. In other words, it is the household's *future or expected* ability to pay rather than its past earnings that is used to determine program eligibility. If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period; and

3. Which are not specifically excluded in Income Exclusions below.

4. Annual income also means amounts derived (during the 12-month period) from assets to which any member of the household has access.

5. MONTHLY GROSS INCOME - Monthly gross income is Annual Gross Income divided by 12 months.

ASSETS

In general terms, an asset is a cash or noncash item that can be converted to cash. There is no asset limitation for participation in the Community Investment Tax Credit Program. Income from assets is, however, recognized as part of Annual Gross Income. Assets have both a market value and a cash value.

1. MARKET VALUE - The market value of an asset is simply its dollar value on the open market. For example, a stock's market value is the price quoted on a stock exchange on a particular day, and a property's market value is the amount it would sell for on the open market. This may be determined by comparing the property with similar, recently sold properties.

2. CASH VALUE - The cash value of an asset is the market value less reasonable expenses required to convert the asset to cash, including:

    a. Penalties or fees for converting financial holdings. Any penalties, fees, or transaction charges levied when an asset is converted to cash are deducted from the market value to determine its cash value (e.g., penalties charged for premature withdrawal of a certificate of deposit, the transaction fee for converting mutual funds, or broker fees for converting stocks to cash); and/or

b. Costs for selling real property. Settlement costs, real estate transaction fees, payment of mortgages/liens against the property, and any legal fees associated with the sale of real property are deducted from the market value to determine equity in the real estate.

c. Under Section 8 rules, only the cash value (rather than market value) of an item is counted as an asset.

INCOME FROM ASSETS

The income counted is the actual income generated by the asset (e.g., interest on a savings or checking account.) The income is counted even if the household elects not to receive it. For example, although a household may elect to reinvest the interest of dividends from an asset, the interest or dividends is still counted as income.

1. The income from assets included in Annual Gross Income is the income that is anticipated to be received during the coming 12 months.

   a. To obtain the anticipated interest on a savings account, the current account balance can be multiplied by the current interest rate applicable to the account; or

   b. If the value of the account is not anticipated to change in the near future and interest rates have been stable, a copy of the IRS 1099 form showing past interest earned can be used.

   c. Checking account balances (as well as savings account balances) are considered an asset. This is in recognition that some households keep assets in their checking accounts, and is not intended to count monthly income as an asset. Grantees should use the average monthly balance over a 6-month period as the cash value of the checking account.

2. When an asset produces little or no income:

   a. If the household's assets are $5,000 or less, actual income from assets (e.g., interest on a checking account) is not counted as annual income. For example, if a household has $600 in a non-interest bearing checking account, no actual income would be counted because the household has no actual income from assets and the total amount of all assets is less than $5,000.

   b. If the household's assets are greater than $5,000, income from assets is computed as the greater of:

      i. actual income from assets, or

      ii. imputed income from assets based on a passbook rate applied to the cash value of all assets.

   For example, if a household has $3,000 in a non-interest bearing checking account and $5,500 in an interest-bearing savings account, the two amounts are added together. Use the standard passbook rate to determine the annual income from assets for this household.

3. Applicants who dispose of assets for less than fair market value (i.e., value on the open market in an "arm's length" transaction) have, in essence, voluntarily reduced their ability to afford housing. Section 8 rules require, therefore, that any asset disposed of for less than fair market value during the 2 years preceding the income determination be counted as if the household still owned the asset.

   a. The value to be included as an asset is the difference between the cash value of the asset and the amount that was actually received (if any) in the disposition of the asset (less any fees associated with disposal of property, such as a brokerage fee).

b. Each applicant must certify whether an asset has been disposed of for less than fair market value. Assets disposed of for less than fair market value as a result of foreclosure, bankruptcy, divorce or separation are not included in this calculation.

c. These procedures are followed to eliminate the need for an assets limitation and to penalize people who give away assets for the purpose of receiving assistance or paying a lower rent.

ASSETS INCLUDE:

1. Amounts in savings accounts and six month average balance for checking accounts.

2. Stocks, bonds, savings certificates, money market funds and other investment accounts.

3. Equity in real property or other capital investments. Equity if the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

4. The cash value of trusts that are available to the household.

5. IRA, Keogh and similar retirement savings accounts, even though withdrawal would result in penalty.

6. Contributions to company retirement/pension funds that can be withdrawn without retiring or terminating employment.

7. Assets which, although owned by more than one person, allow unrestricted access by the applicant.

8. Lump sum receipts such as inheritances, capital gains, lottery winnings, insurance settlements, and other claims.

9. Personal property held as an investment such as gems, jewelry, coin collections, antique cars, etc.

10. Cash value of life insurance policies.

11. Assets disposed of for less than fair market value during two years preceding certification or recertification.

ASSETS DO NOT INCLUDE:

1. Necessary personal property, except as noted under paragraph (9) (Assets Include) above

2. Interest in Indian Trust lands

3. Assets that are part of an active business or farming operation.

   NOTE: Rental properties are considered personal assets held as an investment rather than business assets unless real estate is the applicant/tenant’s main occupation.

4. Assets not accessible to the household and which provide no income to the household.

5. Vehicles especially equipped for the handicapped.

6. Equity in owner-occupied cooperatives and manufactured homes

INCOME INCLUSIONS

The following are used to determine the annual income (gross income) of an applicant's household for purposes of eligibility:

1. The full amount, before any payroll deductions, of wages and salaries, over-time pay, commissions, fees, tips and bonuses, and other compensation for personal services.

2. The net income for the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness cannot be used as deductions in determining net income; however, an allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession is included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family.

3. Interest, dividends, and other net income of any kind from real or personal property. Expenditures for amortization of capital indebtedness cannot be used as a deduction in determining net income. An allowance for depreciation is permitted only as authorized in paragraph (2) above. Any withdrawal of cash or assets from an investment will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested by the family. Where the family has net family assets in excess of $5,000, annual income includes the greater of the actual income derived from net family assets or a percentage of the value of such assets based on the current passbook saving rate, as determined by HUD.

4. The full amount of periodic payments received from Social Security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic receipts, including a lump-sum amount or prospective monthly amounts for the delayed start of a periodic amount (except Supplemental Security Income (SSI) or Social Security).

5. Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation and severance pay (but see paragraph (3) under Income Exclusions).

6. Welfare Assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income consists of:

    a. The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus

    b. The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph is the amount resulting from one application of the percentage.

7. Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling.

8. All regular pay, special pay and allowances of a member of the Armed Forces (see paragraph (8) under Income Exclusions).

INCOME EXCLUSIONS

The following are excluded from a household's income for purposes of determining eligibility:

1. Income from employment of children (including foster children) under the age of 18 years.

2. Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the tenant family, who are unable to live alone).

3. Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses (except for payments in lieu of earnings – see paragraph (5) of Income Inclusions.

4. Amounts received by the family that are specifically for, or in reimbursement of, the cost of medical expenses for any family member.

5. Income of a live-in aide.

6. Certain increases in income of a disabled member of the family residing in Community Investment Tax Credit–assisted housing or receiving tenant-based rental assistance (See paragraph 7 under Determining Whose Income to Count).

7. The full amount of student financial assistance paid directly to the student or to the educational institution.

8. The special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

9. a. Amounts received under training programs funded by HUD.

   b. Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS).

   c. Amounts received by a participant in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care etc.) which are made solely to allow participation in a specific program.

   d. Amount received under a resident's service stipend. A resident service stipend is a modest amount (not to exceed $200 per month) received by a resident for performing a service for the owner or manager on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination and serving as a member of the governing board. No resident may receive more than one such stipend during the same period of time.

   e. Incremental earnings and benefits resulting to any family member from participation in qualifying state or local employment training programs (including training not affiliated with a local government) and training of a family member as resident management staff. Amounts excluded must be received under employment training programs with clearly defined goals and objectives, are excluded only for the period during which the family member participates in the employment training program.

10. Temporary, nonrecurring or sporadic income (including gifts).

11. Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era.

12. Earnings in excess of $480 for each full-time student 18 years old or older (excluding the head of household and spouse).

13. Adoption assistance payments in excess of $480 per adopted child.

14. For public housing only, the earnings and benefits to any family member resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, Section 22 of the 1937 Act, or any comparable federal, state or local law during the exclusion period.

15. Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts.

16. Amounts received by the family in the form of refunds or rebates under state or local law for property taxes paid on the dwelling unit.

17. Amounts paid by a state agency to a family with member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

18. Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under any program to which exclusions set forth in 24 CFR 5.609(c) apply.

The following is a list of types of income that qualify for that exclusion (9/27/89 regulations):

1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977;

2. Payments to volunteers under the Domestic Volunteer Service Act of 1973 (employment through VISTA; Retired Senior Volunteer Program, Foster Grandparents Program, youthful offenders incarceration alternatives, senior companions);

3. Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(a));

4. Income derived from certain sub-marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 259e);

5. Payments or allowances made under the department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

6. Payments received under programs funded in whole or in part under the Job Training Partnership Act;

7. Income derived from the disposition of funds of the Grand River Band of Ottawa Indians;

8. The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. 1407-1408) or from funds held in trust for an Indian tribe by the Secretary of Interior (25 U.S.C. 117);

9. Amounts of scholarships funded under Title IV of the Higher Education Act of 1965 including awards under the Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);

10. Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(f));

11. Any earned income tax credit received on or after January 1, 1991, including advanced earned income credit;

12. Payments received after January 1, 1989 from the Agent Orange Settlement Fund or any other funds established pursuant to the settlement in the In Re Agent Orange product liability litigation MDL No. 381 (E.D.N.Y.);

13. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);

14. Payments received under the Maine Indian Claims Settlement Act of 1980;

15. Payments received under programs funded in whole or in part under the Job Training Partnership Act (employment and training programs for Native Americans and migrant and seasonal farm workers, Job corps, veterans employment programs, state job training programs and career intern programs, AmeriCorps);

16. Payments made by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation;

17. Allowances, earnings, and payments to Americorps participants under the National and Community Service Act of 1990;

18. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran;

19. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance); and

20. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998.

ATTACHMENT B

COMMUNITY INVESTMENT TAX CREDIT PROGRAM

RENT LIMIT DETERMINATION INSTRUCTIONS

All Rent limits are based on the current Low Income (80 % or below Area Median Income) limits produced and defined by the Department of Housing and Urban Development for the Section 8 Programs. Tennessee limits may be found at www.huduser.org/datasets/il.html.

To calculate rent limits please use the following method:

EFFICIENCY: It is assumed that 1.0 person will live in the unit

Use income limit for one person

Divide by 12
Multiply by 0.30
Result is rent limit for efficiency unit

1 BEDROOM: It is assumed that 1.5 persons will live in the unit

Add income limit for one person and two persons

Divide by 2
Divide by 12
Multiply by 0.30
Result is rent limit for 1 bedroom unit

2 BEDROOM: It is assumed that 3.0 persons will live in the unit

Use income limit for three persons

Divide by 12
Multiply by 0.30
Result is rent limit for 2 bedroom unit

3 BEDROOM: It is assumed that 4.5 persons will live in the unit

Add income limit for four persons and five persons

Divide by 2
Divide by 12
Multiply by 0.30
Result is rent limit for 3 bedroom unit

4 BEDROOM: It is assumed that 6.0 person will live in the unit

Use income limit for six persons

Divide by 12
Multiply by 0.30
Result is rent limit for 4 bedroom unit