

Future Developments

The IRS has created a page on IRS.gov for information about Form 8703 and its instructions, at www.irs.gov/form8703. Information about any future developments affecting Form 8703 (such as legislation enacted after we release it) will be posted on that page.

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of form. Form 8703 is used by an operator of a residential rental project to provide annual information the IRS will use to determine whether a project continues to be a qualified residential rental project under section 142(d). If so, and certain other requirements are met, bonds issued in connection with the project are considered "exempt facility bonds" and the interest paid on them is not taxable to the recipient.

Who must file. The operator of a residential rental project for which an election was made under section 142(d) must file Form 8703 annually. A separate Form 8703 must be filed for each project.

When to file. File Form 8703 by March 31 after the close of the calendar year for which the certification is made. Form 8703 must be filed annually during the qualified project period. See the instructions for line 2 for the definition of "qualified project period."

Where to file. File Form 8703 with the:
Internal Revenue Service
Service Center
Ogden, UT 84201

Penalty. Section 6652(j) provides for a penalty of \$100 for each failure to comply with the section 142(d)(7) certification requirements unless it can be shown that failure to file is due to reasonable cause and not to willful neglect.

Questions on filing Form 8703. For specific questions on how to file Form 8703, send an email to the IRS at:

TaxExemptBondQuestions@irs.gov

Put "Form 8703 Question" in the subject line. In the email, include a description of your question, a return email address, the name of a contact person, and a telephone number.

Specific Instructions

Part I—General Information

Enter the name, address (including ZIP or foreign postal code), and taxpayer identification number of both the operator and the owner of the project. Enter the address of the project. Do not use P.O. boxes.

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the "Amended Return" box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return.

Report number. This line is for IRS use only. Do not make an entry.

Line 1. To be a qualified residential rental project, one of the following tests must have been elected for the project:

(a) 20-50 test. 20% or more of the residential units must be occupied by individuals whose income is 50% or less of the area median gross income.

(b) 40-60 test. 40% or more of the residential units must be occupied by individuals whose income is 60% or less of the area median gross income.

(c) 25-60 test (NYC only). 25% or more of the residential units must be occupied by individuals whose income is 60% or less of the area median gross income.

(d) 20-60 test (Gulf Opportunity (GO) Zone, Midwestern disaster areas, and Hurricane Ike disaster areas only). 20% or more of the residential units must be occupied by individuals whose income is 60% or less of the area median gross income.

(e) 40-70 test (GO Zone, Midwestern disaster areas, and Hurricane Ike disaster areas only). 40% or more of the residential units must be occupied by individuals whose income is 70% or less of the area median gross income.

See Rev. Rul. 94-57, 1994-2 C.B. 5, for guidance on computing the income limits applicable to these tests. See Pub. 4492, Information for Taxpayers Affected by Hurricanes Katrina, Rita, and Wilma, for details about the GO Zone. See Pub. 4492-B, Information for Affected Taxpayers in the Midwestern Disaster Areas, for details about the Midwestern Disaster areas.

Line 2. The **qualified project period** is the period beginning on the first day that 10% of the residential units are occupied and ending on the latest of **(a)** the date that is 15 years after the date that 50% of the residential units are occupied, **(b)** the first day that no tax-exempt private activity bond issued for the project is outstanding, or **(c)** the date that any assistance provided for the project under section 8 of the United States Housing Act of 1937 terminates.

Lines 3a and 3b. If a low-income housing credit allocation was issued for more than one building in the project, attach a schedule listing the building identification number (BIN) for each building.

Line 4. The determination of whether the income of a resident of a unit in a project exceeds the applicable income limit shall be made at least annually on the basis of the current income of the resident, except for respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit. See section 142(d)(3)(A). Check "Yes" if there are no new residents in the project whose income exceeds the applicable income limits. Therefore, if "Yes" is checked, complete Part II, skipping lines 6 through 10.

Part II—Annual Determinations

Line 5. Enter the total number of residential rental units in the project.

Line 6. Enter the number of residential rental units occupied by individuals whose income is:

- (a)** 50% or less of the area median gross income (if box 1a was checked),
- (b)** 60% or less of the area median gross income (if box 1b, 1c, or 1d was checked), or
- (c)** 70% or less of the area median gross income (if box 1e was checked).

Do not include any units included on line 7.

Line 7. Enter the number of residential rental units occupied by continuing residents whose income exceeds the applicable income limit but whose income is treated as not exceeding the applicable income limit. Do not include any units included on line 6. See section 142(d)(3)(B).

Line 9. If line 9 is less than the percentage for the test elected in item 1, Part I (i.e., 20%, 40%, or 25%), the project is considered in post-issuance noncompliance. In this case, check the box in Part IV to certify that the project "does not meet" the requirements of section 142(d).

In general, unless the noncompliance is corrected within a reasonable period, the noncompliance will cause the exempt facility bonds for the project to not be qualified bonds under section 141. When the bonds are no longer qualified, the interest paid or to be paid on the bonds is taxable, and the issuers or brokers of the bonds must report the taxable interest to bond holders as required by section 6049. See Regulations sections 1.103-8(b)(1)-(9) and sections 141, 142, and 103 for additional information.

Lines 10a and 10b. Complete these lines only if an election was made to treat the project as a deep-rent skewed project under section 142(d)(4). The 15-40 test that applies to the deep-rent skewed project election is not an additional test for satisfying the requirements of section 142(d)(1). The 15-40 deep-rent skewed project test relates to the determination of a low-income tenant's income. Generally, a continuing resident's income may increase but not exceed 140% of the applicable income limit (i.e., 50% or less or 60% or less of the area median gross income under the line 1a or 1b test). When the deep-rent skewed election is made and the requirements of section 142(d)(4)(B) are met, the income of a continuing resident may increase up to 170% of the applicable income limit. If this election is made, at least 15% of all low-income units in the project must be occupied by tenants whose income is 40% or less of the area median gross income.

On line 10a, enter the number of low-income units occupied by individuals whose income is 40% or less of the area median gross income. Also include the number of units occupied by continuing residents whose income is treated as not exceeding the applicable income limit. If the percentage on line 10b is less than 15%, the project is not a deep-rent skewed project, and a continuing resident's income may not increase above 140% of the applicable income limit for purposes of section 142(d).

Line 11. Enter the number of low-income units vacated during the calendar year.

Line 12. Enter the number of vacated low-income units that were occupied by new residents who were low-income residents at the time of occupancy. The instructions for lines 6 and 7 describe low-income residents.

Line 13. Enter the number of vacant low-income units that were held available for low-income residents as of the end of the calendar year.

Note. Lines 11 through 13 ask questions about low-income units that were vacated during the calendar year. Regulations sections 1.103-8(b)(5)(i) and (ii) provide, that low-income units must be rented or available for rent on a continuous basis by low-income tenants during the longer of: (a) the remaining term of the bond, or (b) the qualified project period. If lines 12 and 13 do not add up to line 11, then make a determination as to whether the project is in compliance with the requirements of section 142(d). If it is determined that the project is not in compliance, check the box in Part IV to certify that the project "does not meet" the requirements of section 142(d).

Part III—Issuer and Description of Bonds

If the project for which you are filing Form 8703 has been financed by more than one tax-exempt bond issue, attach a separate statement containing the information required in Part III, lines 14 through 20, for each bond issue.

Line 14. The issuer's name is the name of the entity issuing the bonds, not the name of the entity receiving the benefits of the financing. The name of the issuer should be identical to the name listed on Form 8038, Part I, line 1, filed with respect to the bond issue.

Line 15. Enter the issuer's employer identification number (EIN). The issuer's EIN should be identical to the EIN listed on Form 8038, Part I, line 2, filed with respect to the bond issue.

Line 16. Enter the name of the bond issue. If there is no name of the issue, please provide other identification of the issue. The name of the bond issue should be identical to the name listed on Form 8038, Part I, line 8, filed with respect to the bond issue.

Line 17. Enter the date of the bond issue. Enter the date in an MM/DD/YYYY format. The date of the bond issue is generally the date on which the issuer physically exchanges the bonds for the underwriter's (or other purchaser's) funds. The issue date should be identical to the issue date listed on Form 8038, Part I, line 7, filed with respect to the bond issue.

Line 18. Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None." The CUSIP number should be identical to the CUSIP number listed on Form 8038, Part I, line 9, filed with respect to the bond issue.

Line 19. Enter the issue price of the bond issue. The issue price of bonds is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the first price at which a substantial amount of the bonds are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations. The issue price should be identical to the issue price listed on Form 8038, Part III, line 21(b), filed with respect to the bond issue.

Line 20. The final maturity date is the last date the issuer must redeem the entire issue. Enter the date in an MM/DD/YYYY format. The final maturity date should be identical to the final maturity date listed on Form 8038, Part III, line 21(a), filed with respect to the bond issue.

Certification

Section 142(d)(7) requires the operator of the project to submit this annual certification as to whether the project continues to meet the requirements of section 142(d). This form must be signed by the operator of the project.

Paid Preparer

If an authorized officer of the operator filled in this return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the return should not sign the return. For example, a regular full-time employee of the operator, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the Paid Preparer Use Only area of the return. The paid preparer must: Sign the return in the space provided for the preparer's signature, enter the preparer information, and give a copy of the return to the operator.

Privacy Act and Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. Code section 142(d)(7) requires that an annual certification be filed with the IRS to determine whether the legal requirements of that section are being met. Routine uses of the information provided on this form include giving it to the Department of Justice for civil and criminal litigation and to other federal agencies, as provided by law. We may disclose the information to cities, states, the District of Columbia, and U.S. commonwealths or possessions to administer their tax laws. We may also disclose the information to foreign governments pursuant to tax treaties or to federal and state agencies to enforce federal nontax criminal laws and to combat terrorism. If you do not provide this form or all of the information requested on it, you may be subject to penalties.

To ensure proper identification of the owner and operator of the project, Code section 6109 and its regulations require an identifying number (social security number (SSN) or employer identification number (EIN)) on the annual certification.

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, return information is confidential, as required by Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:
Recordkeeping 7 hr., 39 min.
Learning about the law or the form 1 hr., 51 min.
Preparing and sending the form to the IRS 3 hr., 16 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 send your comments to:

Internal Revenue Service
Tax Forms and Publications Division
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send the form to this address. Instead, see *Where to file*, earlier.