

Section 42 Rent-Restricted Housing Projects

Frequently Asked Questions

[Neb. Rev. Stat. § 77-1333](#)

1: Who is eligible to file the [Income & Expense Reporting Form](#) (IERF) with the Nebraska Department of Revenue (DOR)? Is the rent-restricted project eligible to file if the project ONLY has Nebraska state tax credits?

Per [Neb. Rev. Stat. § 77-1333](#), the filing requirements apply to projects that have been *allocated* federal low-income housing income tax credits under Section 42 of the Internal Revenue Code (IRC) administered by the Nebraska Investment Finance Authority (NIFA). If a project only has Nebraska housing credits and not credits under [IRC § 42](#), those properties are not eligible to file.

2: What is a rent-restricted project required to file with DOR?

Pursuant to [Neb. Rev. Stat. § 77-1333\(5\)](#) the following documents must be filed with DOR:

1. Annual income and actual expense data for the prior year (see Income and Expense Reporting Form below);
2. A description of any land-use restrictions;
3. A description of the terms of any mortgage loans, including loan amount, interest rate, and amortization period; and
4. Any other information the committee or the county assessor may require to derive a capitalization rate or assessment value respectively.

3: When are low-income housing tax credits considered “*allocated*” to make a low-income housing tax credit (LIHTC) project eligible to file an IERF?

The tax credits are “allocated” when either:

1. The taxpayer/project receives and executes a [Carryover Allocation Agreement](#). This is a document issued by NIFA in the year in which the tax credits are awarded.
 - For example, if a taxpayer receives an award of 2022 tax credits, they must have a signed Carryover Allocation Agreement in place by 12/31/22.

OR:

2. The taxpayer/project receives and executes a [Form 8609](#). This document is issued by NIFA once the project has completed construction and submitted a cost certification to NIFA. Form 8609 is also attached to the taxpayer's federal tax return. This will typically occur two (2) years after the award year.
 - For example, a 2022 Carryover Allocation, Form 8609 will generally be issued toward the end of 2024 or early 2025. *The timing depends on when a project finished construction and how quickly the taxpayer can get the cost certification to NIFA for review.*

4: What is the filing deadline for the IERF?

[Neb. Rev. Stat. § 77-1333](#) requires the IERF be filed with DOR **on or before July 1 of each year.**

5: Are there any provisions for late filing submissions?

No. All filings are due on or before July 1 of each year. See [Neb. Rev. Stat. § 77-1333\(5\)](#). All filings must be sent to pat.tech@nebraska.gov on or before July 1. If the IERF is not timely submitted on or before July 1st, the county assessor may use any of the three professionally accepted mass appraisal methods to determine actual value for the rent-restricted housing project. These methods include the sales comparison approach, the income approach, or the cost approach.

6: Where is the IERF located?

The IERF and other rent restricted information can be found at the [Department of Revenue website](#).

7: How should the IERF be submitted to DOR?

Please email all electronic spreadsheet filings to pat.tech@nebraska.gov on or before July 1 of each year. Hard copies that are hand delivered or sent via mail will not be accepted.

8: Who receives IERF information and how is it used?

DOR will share the information with the Rent-Restricted Housing Project Committee which will be used to develop a market-derived unloaded capitalization rate as required by [Neb. Rev. Stat. § 77-1333](#). The income and expense information is also shared with the county assessor in which the rent-restricted housing project is located.

9: Can an IERF be submitted for properties without active credits?

Yes. However, the IERF is not required for properties without active credits.

10: A project has been allocated federal low-income housing tax credits, but only has income and expenses for part of a year. Can an IERF still be filed?

Yes, however income and expenses used in the IERF must be based on *annual* income realized and expenses incurred in the prior year. Utilize the partial year income and expense data to calculate a monthly average of actual income and expenses. Then multiply the monthly average of income and expense by 12 to get annualized income and expenses.

11: Is a project eligible to file the IERF during the three-year control period after the 30-year affordability period?

Yes. The owner may still file the IERF form during the **three-year control** period.

Additional Resources:

[Nebraska Affordable Housing Tax Credit](#)