

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 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.

Specific Instructions

Part I—General Information

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

Amended form. If you are filing an amended Form 8703, check the Amended Form box and complete Parts I and III. Then complete only those lines of Part II you are amending by entering the correct information.

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

- **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.
- **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.
- **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.
- **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.
- **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 for details about the GO Zone. See Pub. 4492-B 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.

Part II—Annual Determinations

Line 5. Enter the number of residential rental units occupied by individuals whose income is (a) 50% or less of area median gross income (if box 1a was checked), (b) 60% or less of area median gross income (if box 1b, 1c, or 1d was checked), or (c) 70% or less of area median gross income (if box 1e was checked).

Do not include any units included on line 6.

Line 6. 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 5. See section 142(d)(3)(B).

Line 8. If line 8 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 III 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 and 103 for additional information.

Lines 9a and 9b. 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 9a, enter the number of low-income units occupied by individuals whose income is 40% or less of 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 9b 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).

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** 3 hr., 49 min.; **Learning about the law or the form** 1 hr., 17 min.; and **Preparing and sending the form to the IRS** 1 hr., 24 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 write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where to file*.