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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 982

[Docket No. FR-4759-F-03]

RIN 2577-AC39

#### Housing Choice Voucher Program Homeownership Option: Eligibility of Units Owned or Controlled By a Public Housing Agency

**AGENCY:** Office of the Assistant  
Secretary for Public and Indian  
Housing, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule provides that units owned or substantially controlled by a public housing agency (PHA) are eligible for purchase under the Housing Choice Voucher Program homeownership option. The inclusion of PHA-owned or controlled properties among properties eligible for purchase under the homeownership option will expand the availability of housing and affordable homeownership opportunities for voucher families participating in the homeownership option. The final rule also establishes procedures to remove potential conflicts of interest where the PHA is the seller. These provisions are modeled on the requirements for PHA-owned units in the voucher rental program. The final rule follows publication of an October 28, 2002, interim rule. After consideration of the issues raised by the single public commenter on the interim rule, HUD has decided to adopt the interim rule without change.

**DATES:** *Effective Date:* October 17, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Gerald J. Benoit, Office of Public and Indian Housing, Department of Housing and Urban Development, Room 4210, 451 Seventh Street, SW., Washington, DC 20410-5000; telephone (202) 708-0477. (This is not a toll-free number.) Hearing- or speech-impaired individuals may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION

##### I. Background

On October 28, 2002 (67 FR 65864), HUD published an interim rule providing that units owned or substantially controlled by a public housing agency (PHA) are eligible for purchase under the Housing Choice Voucher Program homeownership

option. Under the "homeownership option" of the Housing Choice Voucher Program, a PHA may choose to provide monthly homeownership assistance to an eligible family that purchases a dwelling unit to be occupied by the family. On November 6, 2002 (67 FR 67522), HUD published a technical correction to the October 28, 2002, interim rule, correcting a typographical error concerning the designation of the paragraph being added to the voucher program regulations.

The October 28, 2002, interim rule amended § 982.628 of the homeownership option regulations, which concerns the eligibility of units, to specify that a PHA may provide homeownership assistance for the purchase of a PHA-owned unit. The inclusion of PHA-owned units in the universe of eligible units expands the availability of housing and affordable homeownership opportunities for voucher families participating in the homeownership option.

The October 28, 2002, interim rule provides that PHA-owned units are eligible for purchase through the homeownership option, but provides that an independent entity must perform certain administrative duties for which the PHA would normally be responsible. The independent entity must review the contract of sale, conduct the initial housing quality standards (HQS) inspection, and review the independent inspection report. In addition, the independent entity must determine the reasonableness of the sales price and any PHA-provided financing.

The reviews performed by the independent entity shall be conducted in accordance with the homeownership option regulations. The independent entity must be selected by the PHA and approved by HUD in accordance with existing procedures under the tenant-based assistance program at § 982.352(b)(iv)(B) and (C). The PHA may not steer, direct, or require families to purchase PHA-owned properties.

##### II. This Final Rule; Discussion of the Public Comment on the October 28, 2002, Interim Rule

This final rule follows publication of the October 28, 2002, interim rule. The public comment period on the interim rule closed on December 27, 2002. HUD received a single public comment on the interim rule from the New York City Housing Authority. After consideration of the issues raised by the public commenter, and for the reasons discussed below, HUD has decided to adopt the interim rule without change.

The commenter supported the changes made by the interim rule, writing that the rule "expands the choices available especially in markets where the affordable stock is decreasing." However, the commenter also wrote that high-cost communities, such as New York City, have been unable to implement the voucher homeownership option due to HUD's program design and the nearly prohibitive costs of housing. The commenter suggested that HUD revise the regulations governing the homeownership option to address these concerns. The commenter recommended that HUD authorize the use of project-based voucher assistance to provide voucher homeownership assistance. The commenter also suggested that the maximum term of voucher homeownership assistance (typically fifteen years in most cases under § 982.634) should be made equal to the term of the mortgage obtained by the homebuyer (typically thirty years). Finally, the commenter recommended that HUD allow PHAs to provide voucher homeownership assistance at 120% of the published Fair Market Rent.

As noted, HUD has not revised the interim rule in response to these comments, and is adopting the final rule without change. The changes suggested by the commenter were not included as part of, and are outside the scope of, the October 28, 2002, interim rule which focused on making PHA-owned or controlled properties eligible for purchase under the Housing Choice Voucher Program. The changes recommended by the commenter are more appropriately directed towards the Section 8 homeownership option rule, a separate rulemaking proposed on April 30, 1999 (64 FR 23488), and made final on September 12, 2002 (65 FR 55134). HUD considered the substance of the changes recommended by the commenter in the course of that rulemaking. Since the changes are outside the scope of the interim rule, HUD is not prepared to adopt the suggested changes at this final rule stage. HUD will consider the recommended changes should it decide to undertake future rulemaking to amend the homeownership option regulations.

##### III. Findings and Certifications

###### *Executive Order 12866, Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review").

OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

#### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment was made at the interim rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

#### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandates on any state, local, or tribal governments or the private sector within the meaning of the Unfunded Mandates Reform Act of 1995.

#### *Executive Order 13132, Federalism*

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule is exclusively concerned with homeownership voucher assistance. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

#### *Impact on Small Entities*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) (RFA), has reviewed and

approved this rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

(1) *A Substantial Number of Small Entities Will Not be Affected.* rule is exclusively concerned with public housing agencies that administer tenant-based housing assistance under section 8 of the United States Housing Act of 1937. Under the definition of "small governmental jurisdiction" in section 601(5) of the RFA, the provisions of the RFA are applicable only to those few PHAs that are part of a political jurisdiction with a population of under 50,000 persons. The number of entities potentially affected by this rule is therefore not substantial.

(2) *No Significant Economic Impact.* The rule does not change the amount of funding available under the Housing Choice Voucher Program. Accordingly, the economic impact of this rule will not be significant, and it will not affect a substantial number of small entities.

#### *Catalog of Domestic Assistance Number*

The Catalog of Domestic Assistance Number for the Housing Choice Voucher Program is 14.871.

#### **List of Subjects in 24 CFR Part 982**

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

■ Accordingly, for the reasons stated in the preamble, the interim rule for part 982 of title 24 of the Code of Federal Regulations, published on October 28, 2003, 67 FR 65864, as corrected on November 6, 2003, 67 FR 67522, is promulgated as final, without change.

Dated: September 9, 2003.

**Michael M. Liu,**

*Assistant Secretary for Public and Indian Housing.*

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Parts 1, 31, and 602**

**[TD 9092]**

**RIN 1545-BA44**

#### **Split-Dollar Life Insurance Arrangements**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the income, employment, and gift taxation of split-dollar life insurance arrangements. The final regulations provide needed guidance to persons who enter into split-dollar life insurance arrangements.

**DATES:** Effective Date: These regulations are effective September 17, 2003.

**Applicability Dates:** For dates of applicability of the final regulations, see §§ 1.61-22(j), 1.83-3(e), 1.83-6(a)(5)(ii), 1.301-1(q)(4), and 1.7872-15(n).

#### **FOR FURTHER INFORMATION CONTACT:**

Concerning the section 61 regulations, please contact Elizabeth Kaye at (202) 622-4920; concerning the section 83 regulations, please contact Erinn Madden at (202) 622-6030; concerning the section 301 regulations, please contact Krishna Vallabhaneni at (202) 622-7550; concerning the section 7872 regulations, please contact Rebecca Asta at (202) 622-3930; and concerning the application of these regulations to the Federal gift tax, please contact Lane Damazo at (202) 622-3090.

#### **SUPPLEMENTARY INFORMATION:**

##### **Paperwork Reduction Act**

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1792. The collections of information are in § 1.7872-15(d)(2) and (j)(3)(ii). Responses to these collections of information are required by the IRS to verify consistent treatment by the borrower and lender of split-dollar loans with nonrecourse or contingent payments. In addition, in the case of a split-dollar loan that provides for nonrecourse payments, the collections of information are voluntary and are required to obtain a benefit (that is, the treatment of a nonrecourse split-dollar loan as a noncontingent split-dollar loan).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

The estimated annual burden per respondent varies from 15 minutes to 30 minutes, depending on individual circumstances, with an estimated average of 17 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for