

Internal Revenue Service, Treasury

§ 1.25-5T

sufficient for County W to determine whether the residence is located within the jurisdiction of County W.

(ii) An affidavit stating that the applicant had no present ownership interest in a principal residence at any time during the 3-year period prior to the date on which the certificate is issued.

(iii) Copies of the applicant's Federal tax returns for the preceding 3 years.

(iv) Affidavits from the seller of the residence with respect to which the certificate is issued and the applicant stating the purchase price of the residence, including an itemized list of (A) payments made by or for the benefit of the applicant, (B) if the residence is incomplete, an estimate of the reasonable cost of completing the residence, and (C) if the residence is subject to a ground rent, the capitalized value of the ground rent.

(v) An affidavit executed by the applicant stating that the mortgage being acquired in connection with the certificate will not be used to acquire or replace an existing mortgage.

(vi) An affidavit executed by the applicant stating that no portion of the financing for the residence in connection with which the certificate is issued is provided from the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond and that no portion of the mortgage for the residence is provided by a person related to the applicant (as defined in § 1.25-3T(n)).

(vii) An affidavit executed by the applicant stating that the certificate was not limited to indebtedness incurred from particular lenders, and

(viii) In the case of a mortgage credit certificate allocated for use in connection with a particular development, an affidavit executed by the applicant stating that the applicant received from the developer a certification stating that the price of the residence with respect to which the certificate was issued is no higher than it would be without the use of a mortgage credit certificate.

The lender then submits those affidavits, together with its statement as to the amount of the indebtedness incurred, to County W. After determining that the requirements of paragraphs (c), (d), (e), (f), (g), (i), (j), (k) and (n) of § 1.25-3T are met and determining that the certificate has not expired, County W completes the mortgage credit certificate. This procedure for issuing mortgage credit certificates is sufficient evidence of the good faith of County W to meet the requirements of § 1.25-4T(j)(1)(i)(A).

(2) *Program requirements.* (i) A mortgage credit certificate program which fails to meet one or more of the requirements of paragraphs (b) through (h) of this section shall be treated as

meeting such requirements if the requirements of this paragraph (j)(2) are satisfied. A mortgage credit certificate program meets the requirements of this paragraph (j)(2) only if each of the following provisions is met:

(A) The issuer in good faith attempted to meet all of the requirements of paragraphs (b) through (h) of this section. This good faith requirement will be met if all reasonable steps are taken by the issuer to ensure that the program complies with these requirements.

(B) Any failure to meet such requirements is due to inadvertent error, e.g., mathematical error, after taking reasonable steps to comply with such requirements.

(ii) The following example illustrate the application of this paragraph (j)(2):

Example. City X issues an issue of mortgage credit certificates. However, despite taking all reasonable steps to determine accurately the size of the applicable limit, as provided in section 103A (g)(3) and the regulations thereunder, the limit is exceeded because the amount of the mortgages, originated in the area during the past 3 years is incorrectly computed as a result of mathematical error. Such facts are sufficient evidence of the good faith of the issuer to meet the requirements of paragraph (j)(2).

[T.D. 8023, 50 FR 19350, May 8, 1985, as amended by T.D. 8048, 50 FR 35538, Sept. 3, 1985]

§ 1.25-5T Limitation on aggregate amount of mortgage credit certificates (Temporary).

(a) *In general.* If the aggregate amount of qualified mortgage credit certificates (as defined in paragraph (b)) issued by an issuer under a qualified mortgage credit certificate program exceeds 20 percent of the nonissued bond amount (as defined in paragraph (c)), the provisions of paragraph (d) shall apply.

(b) *Aggregate amount of mortgage credit certificates—(1) In general.* The aggregate amount of qualified mortgage credit certificates issued under a qualified mortgage credit certificate program is the sum of the products determined by multiplying—

(i) The certified indebtedness amount of each qualified mortgage credit certificate issued under that program, by

(ii) The certificate credit rate with respect to such certificate.

(2) *Examples.* The following examples illustrate the application of this paragraph (b):

Example 1. For 1986 City Q has a nonissued bond amount of \$100 million. After making a proper election, Q issues 2,000 qualified mortgage credit certificates each with a certificate credit rate of 20 percent and a certified indebtedness amount of \$50,000. The aggregate amount of qualified mortgage credit certificates is \$20 million ($2,000 \times (.2 \times \$50,000)$). Since this amount does not exceed 20 percent of the nonissued bond amount ($.2 \times \$100$ million = \$20 million), Q has complied with the limitation on the aggregate amount of mortgage credit certificates, provided that it does not issue any additional certificates.

Example 2. The facts are the same as in example (1) except that instead of issuing all its certificates at the 20 percent rate, Q issues (i) qualified mortgage credit certificates with a certificate credit rate of 10 percent and an aggregate principal amount of \$25 million, (ii) qualified mortgage credit certificates with a certificate credit rate of 40 percent and an aggregate principal amount of \$25 million, and (iii) qualified mortgage credit certificates with a certificate credit rate of 30 percent and an aggregate principal amount of \$25 million. The aggregate amount of qualified mortgage credit certificates is \$20 million (10 percent of \$25 million) plus (40 percent of \$25 million) plus (30 percent of \$25 million). Q has complied with the limitation on the aggregate amount of qualified mortgage credit certificates, provided that it does not issue any additional certificates pursuant to the same program.

(c) *Nonissued bond amount.* The term “nonissued bond amount” means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds (as defined in section 103A(c)(1) and the regulations thereunder) which the issuer is otherwise authorized to issue and elects not to issue under section 25(c)(2) and § 1.25-4T(b). The amount of qualified mortgage bonds which an issuing authority is authorized to issue is determined under section 103A(g) and the regulations thereunder; such determination shall take into account any prior elections by the issuer not to issue qualified mortgage bonds, the amount of any reduction in the State ceiling under paragraph (d) of this section, and the aggregate amount of qualified mortgage bonds issued by the issuer prior to its election not to issue qualified mortgage bonds.

(d) *Noncompliance with limitation on aggregate amount of mortgage credit certificates—(1) In general.* If the provisions of this paragraph apply, the State ceiling under section 103A(g)(4) and the regulations thereunder for the calendar year following the calendar year in which the Commissioner determines the correction amount for the State in which the issuer which exceeded the limitation on the aggregate amount of mortgage credit certificates is located shall be reduced by 1.25 times the correction amount with respect to such failure.

(2) *Correction amount.* (i) The term “correction amount” means an amount equal to the excess credit amount divided by .20.

(ii) The term “excess credit amount” means the excess of—

(A) The credit amount for any mortgage credit certificate program, over

(B) The amount which would have been the credit amount for such program had such program met the requirements of section 25(d)(2) and paragraph (a) of this section.

(iii) The term “credit amount” means the sum of the products determined by multiplying—

(A) The certified indebtedness amount of each qualified mortgage credit certificate issued under the program, by

(B) The certificate credit rate with respect to such certificate.

(3) *Example.* The following example illustrates the application of this paragraph:

Example. For 1987 City R has a nonissued bond amount of \$100 million. City R issues all of its mortgage credit certificates with a certificate credit rate of 20 percent. City R issues certificates with an aggregate certified indebtedness amount of \$120 million. The aggregate amount of mortgage credit certificates issued by City R is \$24 million, which exceeds 20 percent of the nonissued bond amount. The State ceiling for the calendar year following the calendar year in which the Commissioner determines the correction amount is reduced by \$25 million (the correction amount multiplied by 1.25). The correction amount is determined as follows: The credit amount is \$24 million ($.2 \times \120 million); the amount which would have been the credit amount for the program had it met the requirements of section 25(d)(2) is \$20 million ($.2 \times \100 million); the excess credit

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amount is \$4 million (\$24 million—\$20 million); therefore, the correction amount is \$20 million (\$4 million/.2).

(4) *Cross-references.* See section 103A(g)(4) and the regulations thereunder with respect to the reduction of the applicable State ceiling.

[T.D. 8023, 50 FR 19353, May 8, 1985]

§ 1.25-6T Form of qualified mortgage credit certificate (Temporary).

(a) *In general.* Qualified mortgage credit certificates are to be issued on the form prescribed by the Internal Revenue Service. If no form is prescribed by the Internal Revenue Service, or if the form prescribed by the Internal Revenue Service is not readily available, the issuer may use its own form provided that such form contains the information required by this section. Each mortgage credit certificate must be issued in a form such that there are at least three copies of the form. One copy of the certificate shall be retained by the issuer; one copy shall be retained by the lender; and one copy shall be forwarded to the State official who issued the certification required by § 1.25-4T(d), unless that State official has stated in writing that he does not want to receive such copies.

(b) *Required information.* Each qualified mortgage credit certificate must include the following information:

(1) The name, address, and TIN of the issuer,

(2) The date of the issuer's election not to issue qualified mortgage bonds pursuant to which the certificate is being issued,

(3) The number assigned to the certificate,

(4) The name, address, and TIN of the holder of the certificate,

(5) The certificate credit rate,

(6) The certified indebtedness amount,

(7) The acquisition cost of the residence being acquired in connection with the certificate,

(8) The average area purchase price applicable to the residence,

(9) Whether the certificate meets the requirements of § 1.25-3T(d), relating to residence requirement,

(10) Whether the certificate meets the requirements of § 1.25-3T(e), relating to 3-year requirement,

(11) Whether the certificate meets the requirements of § 1.25-3T(g), relating to new mortgage requirement,

(12) Whether the certificate meets the requirements of § 1.25-3T(i), relating to prohibited mortgages,

(13) Whether the certificate meets the requirements of § 1.25-3T(j), relating to particular lenders,

(14) Whether the certificate meets the requirements of § 1.25-3T(k), relating to allocations to particular developments,

(15) Whether the certificate meets the requirements of § 1.25-3T(n), relating to interest paid to related persons,

(16) Whether the residence in connection with which the certificate is issued is a targeted area residence,

(17) The date on which a closing agreement is signed with respect to the certified indebtedness amount,

(18) The expiration date of the certificate,

(19) A statement that the certificate is not transferable or a statement that the certificate may be transferred only if the issuer issues a new certificate, and

(20) A statement, signed under penalties of perjury by an authorized official of the issuer or its agent, that such person has made the determinations specified in paragraph (b) (9) through (16).

[T.D. 8023, 50 FR 19354, May 8, 1985]

§ 1.25-7T Public notice (Temporary).

(a) *In general.* At least 90 days prior to the issuance of any mortgage credit certificate under a qualified mortgage credit certificate program, the issuer shall provide reasonable public notice of—

(1) The eligibility requirements for such certificate,

(2) The methods by which such certificates are to be issued, and

(3) The other information required by this section.

(b) *Reasonable public notice—(1) In general.* Reasonable public notice means published notice which is reasonably designed to inform individuals who would be eligible to receive mortgage credit certificates of the proposed issuance. Reasonable public notice may be provided through newspapers of general circulation.