

# Understanding Income Averaging Minimum Set Aside

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# Overview

- New Minimum Set Aside
- Basic Calculation
- Next Available Unit Rule
- Questions

# New Minimum Set Aside

- Minimum set asides:
  - At least 20% of units rent restricted and occupied by tenants at 50% or less of Area Median Income (AMI)
  - At least 40% of units rent restricted and occupied by tenants at 60% of AMI
  - NYC – special 25% of units at 60% of AMI
- New Minimum Set Aside - Consolidated Appropriations Act of 2018
- Applies to elections made after enactment – March 23, 2018
- Owner designates income limitation for each low income unit
- Designation can be 20%, 30%, 40%, 50%, 60%, 70% or 80%
- Average of unit designations must be 60% or less of AMI
- Also at least 40% of units rent restricted

# Basic Calculation

- Many ways to get to 60% average
- 10 unit building – 4@80%, 3@60% 3@30% - Average 59% - ok
- 10 unit building – 5@80%, 5@40% - Average 60% - ok
- 10 units – 2 @80, 1@70, 2@60, 1@50, 2@40, 2@mkt – Ave. 60% -ok
- Rents charged to tenants based on unit income designation
- Calculation not based on units size – just number of units

# Next Available Unit Rule

- Income of tenant increases above 140% of greater of:
  - 60% of AMI or
  - Designated income limitation
- Next vacant unit of equal or smaller size rented to:
  - Low income unit - rented at its designated income limit
  - Market rate unit - rented at level to keep the average at 60% or below
- Deep rent skew rules modified

# Questions

- How is election made? Need to revise Form 8609
- Can deals with pre-2018 allocations make this election?
- Can states have more restrictive rules?
- Does this impact tax exempt bond minimum set asides?
- Does this impact existing deals?
- Can deals with existing land use restrictions make this election?
- Planning Opportunities? Especially with Section 8

# Contact Us

## **Beth Mullen, CPA**

**Partner, Affordable Housing Industry Leader**

916-442-9100

Beth.Mullen@CohnReznick.com

Beth Mullen is CohnReznick's Affordable Housing Industry Leader. She is also a member of the Firm's Tax Practice Executive Committee. She has more than 25 years of experience providing consulting, tax, and accounting services to real estate owners and developers and the community redevelopment industry.

