

BREAKING TAX NEWS
October 30, 2002

IRS Studying Status of Section 236 Interest Reduction Payments
Approves Rental Supplement and Rental Assistance Programs

On Monday the Internal Revenue Service issued Revenue Ruling 2002-65 which announced that it is studying the proper treatment of Interest Reduction Payments (“IRPs”) made under Section 236 of the National Housing Act for purposes of the Low-Income Housing Tax Credit under Section 42 (“LIHTC”). Section 236 IRPs represent federal payments to a project which are intended have the effect of reducing the interest rate on the projects debt from the stated loan rate to 1%. While Section 236 IRPs are not available for new projects, a number of existing projects that receive Section 236 IRPs could also be eligible for the LIHTC. The Ruling puts the industry on notice that projects receiving Section 236 IRPs should use caution if there is an interest in also using LIHTCs to rehabilitate such projects.

The Ruling also confirmed that two old programs, the Rent Supplement Payment program and the Rental Assistance Payment program, are not federal grants that would need to be subtracted from LIHTC Eligible Basis under Section 42(d)(5). The Rent Supplement Payment Program, authorized under Section 23 of the Housing and Urban Development Act of 1965, covers the difference between a tenant’s rental payment (a maximum of 25 to 30% of income) and market rent, up to 70% of market rates. The program is a forerunner to the Section 8 program. As with the Section 236 IRPs, the Rental Assistance Payments program is authorized under Section 236 of the National Housing Act. This program also provides a payment similar to the Section 8 program for up to 20% of the units within such a building. The payment covers the difference between 30% of a tenant’s income and market rental rates.

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