

Average Income Test (AIT) Questions and Answers

IRS Final Rule Released October 12, 2022

On October 12, 2022, the IRS published the federal Tax Credit [Final and Temporary Average Income Test \(AIT\) regulations](#).

The IRS Average Income Test (AIT) Final Rule provides the Tax Credit Allocation and Monitoring Agencies greater flexibility to determine written AIT procedures. To learn more about Virginia Housing's guidelines on the Average Income Test, review the written guidance on the [Compliance Monitoring page](#) on our website.

Please Note: The questions included in this document are actual questions submitted about the AIT, with limited editing to convey the views. Send questions and feedback to Compliance-AssetManagement@VirginiaHousing.com.

Minimum Set-Aside – Average Income Test (AIT)

Q.: What is required to meet the Average Income Minimum Set-Aside?

A.: The IRS Final AIT rule requires the project owner to annually identify a Qualified Group of Units, which must include a minimum of 40% of the designated units in the project **with** unit designations that must average 60% AMI or less to meet the minimum set-aside test, the AIT.

Unit Designations

Q.: Are the units fixed or floating?

A.: The unit designations may float. The IRS AIT Final Rule allows the project owner to change the unit designations to maintain compliance with federal, state, and local housing program requirements. Virginia Housing's written guidance allows unit designation changes as needed for the project to maintain its Average Income Test Qualified Group of Units, Applicable Fraction Qualified Group of Units, and units at each income and rent limitation required in the project's Extended Use Agreement (EUA). Follow the most restrictive program requirements for your Project.

Q.: When is the project owner required to designate the low-income units?

A.: The IRS AIT Final Rule requires the project owners to designate the unit income limitations before a unit is initially occupied, re-occupied at unit turnover, or by the end of the taxable year for existing tenants. The project owner must report all unit designation changes to Virginia Housing with the annual Owner's Certification Year-End report submission.

Q.: When can a unit be redesignated?

A.: The IRS AIT Final Rule permits the units to be "redesignated" as needed according to IRS, HFA, or other federal, state, or local written housing requirements. Virginia Housing does not restrict unit designation changes. The project owner and its management agent must implement written policies to consistently manage unit designation changes in the project. The unit designation may change to satisfy the Next Available Unit rule, for reasonable accommodation requests, to maintain or correct the AIT, or to accommodate a change in an existing tenant's income before the end of the taxable year, December 31.

Q: Can a project owner or management agent designate units with an average of less than 60% overall to be safe?

A.: Yes, a Project can designate units with an average of less than 60%. An average of 60% AMI is the maximum.

Q: How are income designations determined in terms of the unit mix? Does it matter? Can smaller units be lower income designations and larger units be higher?

A.: The IRS AIT Final Rule does not impose restrictions on the distribution of the income limitations. Virginia Housing imposes additional requirements on the income limitations for 4% Tax-Exempt Bonds projects. At least 40% of the units in projects with 4% Tax-Exempt Bonds issued by Virginia Housing, designate 40% of all units at or below 60% AMI.

It is the project owner's responsibility to designate the unit income limitations. The number of units required in the project and their income limitations are included in the recorded Extended Use Agreement (EUA).

Q.: Does the average of each individual Building have to meet the 60% average or lower for all unit designations, even if it is part of a multiple building project?

A1: The required 60% average of unit designations is a part of meeting the Minimum Set-Aside. The Minimum Set-Aside is a **Project** rule. Virginia Housing issues Part I of IRS form 8609 for each **Building or BIN** identified by the project owner. Line 8b in Part II of the IRS 8609 form defines the Project for Tax Credit and 4% Tax-Exempt Bond projects in our portfolio. If Line 8b in Part II on the IRS form 8609 is "No," each Project must meet the 60% average of unit designations. If "Yes" is selected on Line 8b, the average of the designated income limitations across all assigned buildings (BINS) in the required annual Owner's Certification attachment is used to calculate the average. The Tax-Exempt Bond Minimum Set-Aside requirements may be different. Contact your assigned Compliance Officer if you have questions about the requirements in your project.

***Example:** The Minimum Set-Aside is a Project Rule defined by Line 8b in Part II on the IRS 8609 form. In the example below, all units are low-income and designated at or below 80% AMI. Because the Project includes both buildings, the project owner must select 40% or four units across the buildings in the Project that average 60% to meet the AIT. Units **A1, A4, B2,** and **B5** represent 40% of the Project **and** the unit designations average 60% AMI.

**Multiple Building Project
Line 8b in Part II on IRS form 8609**

Building A Unit #	Imputed Income Limitation	Sq. Feet
A1	80%	1100
A2	80%	1100
A3	*40%	900
A4	*40%	800
A5	*40%	900

Building B Unit #	Imputed Income Limitation	Sq. Feet
B1	*40%	900
B2	*40%	800
B3	80%	1100
B4	80%	1100
B5	80%	900

*The Tax-Exempt Bond 40% at or below 60% unit designation requirement is met

Average Building AMI: 56%
Total Sq. Ft.: 4800

Average Building AMI: 64%
Total Sq. Ft.: 4800

**Average Project AMI:
60%**

In the example above, the average of the unit designations in Building B may exceed the 60% AMI average because both Buildings are a part of a multiple-Building Project, **and** the Project AIT is satisfied.

A2: The IRS Final AIT regulations do not include the Tax-Exempt Bond program. However, Virginia Housing permits 4% Tax-Exempt Bond Projects to implement AIT and all its income limitations as long as at least 40% of all residential low-income units in the **Project** are designated at or below 60% AMI throughout the Extended Use Period.

*In the Project example above, the 40% income limitation is assigned to 50% of the units in the Project and meets the Virginia Housing requirement for 4% Tax-Exempt Bond projects.

Change in Unit Designations (Redesignations & Tracking)

Q.: How does a Site keep track of unit designation changes?

A.: The IRS AIT Final Rule requires project owners to maintain records of unit designation changes and annually report all unit designation changes to Virginia Housing. The property owner may maintain a rent roll with occupancy and eligibility information, and Virginia Housing requires updates on all tenant activities in the online tenant compliance monitoring system as they occur.

The executed TIC and tenant activity updates in the online tenant monitoring system will be used to determine compliance with the AIT in compliance monitoring reviews. ***See the [Annual Tax Credit Reporting User Instructions](#)**

Q.: When changing designations, do bedroom sizes need to remain the same? Does swapping status for units mean that they have to be same size/sq. ft. Same amenities like # of bathrooms?

A.: There is no program or Virginia Housing requirement to switch unit designations on like units. The project owner must confirm the compliance status of the Applicable Fraction when changing the income limitations on units of different sizes.

Q.: How do you treat units that are redesignated for existing households? Would the unit redesignation make the certification an "Initial Certification" or a Recertification?

A.: If the unit is redesignated after the Move-In or Initial Certification, the unit designation change must be reported in the tenant file and online tenant monitoring system according to the tenant activity. See the certification descriptions below.

- **MI** for a new **Move-In** (newly constructed or vacant units)
- **IC** for **Initial Certification** (existing projects with a Resyndication)
- **AR** for **Annual Recertification** (if applicable)
- **UT** for **Unit Transfers** (for eligible tenants in the building or project, as applicable)

Please Note, the Interim Certification (IR) is not applicable to the Tax Credit program but may be required for certain programs in some Projects. Review your program regulatory documents to confirm your project's specific certification requirements.

Extended Use Agreement (EUA) Requirements

Q: If the Extended Use Agreement (EUA) requires set-asides at 30%, 40%, or 50%, how do those units get treated for IRS Average Income?

A.: All designated units at or below 80% AMI that are habitable without uncorrected noncompliance, rent-restricted, **and** occupied or previously occupied by a qualified tenant counts toward meeting the Qualified Group of Units required to meet the AIT and Applicable Fraction.

Example: Review the EUA screenshots below:

“A. Commencing with respect to each building in the Development not later than the close of the first year of the Credit Period (as defined in subsection (f)(1) of Section 42) for such building, **the Applicable Fraction** (as defined in subsection (c)(1) of Section 42), expressed as a percentage, for such building shall be not less than 100%; and, by way of clarification and not of limitation or amendment, **each unit upon which the Owner relies in order to satisfy the foregoing requirement of this subsection A, but in no event less than 100% of the units in each building of the Development (or such higher percentage as may be necessary in order to satisfy the Floor Space Fraction requirement of subsection (c)(1)(D) of Section 42), shall be subject to the income limitation applicable under subsection (g)(1) of Section 42; in this case, the maximum percentage of Area Median Gross Income (as described in Section 142(d)(2)(B) of the Internal Revenue Code of 1986, as amended) applicable under the income limitation provisions of such subsection (g)(1) shall be in accordance with the average income election added to the Section 42(g)(1) minimum set-aside requirements by the Consolidated Appropriations Act of 2018 (the “Average Income Test”). Under the Average Income Test, forty percent (40%) or more (25% or more in the case of a project described in Section 142(d)(6)) of the residential units in the project must be both rent restricted and occupied by individuals whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the respective unit. The average of the imputed income limitations designated must not be more than 60% of the area median gross income. The designated imputed income limitation of a unit can only be 20%, 30%, 40%, 50%, 60%, 70%, or 80% of the area median gross income and must be as designated with VHDA in writing.**

paragraph, 51.22% of the units the Development, on a project-wide basis, shall be subject to a maximum percentage of Area Median Gross Income of 50% under the income limitation provisions of subsection (g)(1) of Section 42.

B. Commencing on the date hereof, each unit upon which the Owner relies in order to meet the income restrictions described in the preceding subsection A shall also be Rent Restricted. Notwithstanding that the applicable income limitations in the preceding subsection A, 40.24% of the units in the Development must be Rent Restricted as if the applicable income limitation shall be 50% of Area Median Gross Income and 10.98% of the units in the Development must be Rent Restricted as if the applicable income limitation shall be 40% of Area Median Gross Income.

The EUA examples above include the required federal and state occupancy restrictions for income and rent. **A Project with 100 units must meet:**

- **The AIT = a minimum of 40% or 40 units** must be designated at or below 80% AMI or at or below 60% AMI for projects with 4% Tax-Exempt Bonds. The units must be income and rent-restricted, habitable without uncorrected noncompliance, and occupied by qualified tenants **with the unit designations calculated at or below an average of 60% AMI income limits.**
- **Applicable Fraction = 100% or 100 units** must be designated **at or below 80% AMI income limits** on habitable units, without uncorrected noncompliance, leased to income eligible tenants.

AIT and State EUA Requirements Example continued:

100 Unit Project - EUA Limitations

	Limitations	Percentage	# of Units	
Income	*50% AMI	51.22%	52	*Note: A Project with TE Bonds meets the unit designation requirements
Income	20%-80% AMI	48.78%	48	
Rent	*50% AMI	40.24%	41	100 Units
Rent	*40% AMI	10.98%	11	
Rent	20%-80% AMI	48.78%	48	

Q.: Can existing properties with 20-50 or 40-60 use Average Income? If a project has already been placed in service for several years, are you able to change to income averaging instead of just the 40/60?

A.: Average Income only applies to Projects allocated Tax Credits after January 1, 2019.

Second Credit Allocation (Resyndication) and AIT: Projects approved for a 2nd allocation of Tax Credits may elect Average Income on the new 8609; however, Virginia Housing may not terminate or amend the existing Extended Use Agreement (EUA). The Project will be monitored according to the existing EUA occupancy requirements until the agreement ends.

Unit Transfers

Q.: If a 60% resident is approved to transfer to a 50% unit on the first floor in the same Building for cheaper rent, is the Project required to swap the unit designation?

A.: The IRS AIT Final Rule permits flexibility to maintain or change unit designations in the project. The units may swap status or remain the same according to the project owner's written AIT policies and procedures for unit designation changes. Since the IRS AIT Final rule permits unit designation changes, a tenant is not required to physically move to another unit for a change in the unit designation.

Average Income Published Income Limits

Q.: What are the income limits for new projects that will elect Average Income?

A.: In 2019, HUD published a separate income limits table for Average Income projects. The project owner is responsible for confirming the appropriate Tax Credit income and rent limits used in the Project. The project owner may also use [Novogradac Rent and Income Calculator](#) to assemble income and rent limits for federal housing programs.

The Virginia Housing [Excel Program Limits form](#) on the Virginia Housing website includes the (1) HUD-published income for the [Multifamily Tax Subsidy Program \(MTSP\)](#), (2) [Average Income](#), (3) [National Non-Metropolitan \(NNMI\)](#), (4) [Section 8 limits](#) applicable for LIHTC and 4% Tax-Exempt Bond projects, as well as the (5) Virginia Housing not-Adjusted for Family Size (not-AFS) limits for Virginia Housing Loan programs.

Contact the project's assigned Compliance Officer or email compliance questions to Compliance-AssetManagement@VirginiaHousing.com. Include your property name, assigned property number, and details about the question in the email subject line.

IRS Form 8609 – Part II Line 8b (Multiple Building Project)

Q.: Can Average Income be selected in Part II on the IRS 8609 form for 4% Tax-Exempt Bond Projects?

A.: Yes. The IRS 8609 form applies to the Tax-Exempt Bond program and is used to assign the Minimum Set-Aside. However, the 70% and 80% income limitations do not apply to the Tax-Exempt Bond program.

Virginia Housing Guidance on 4% Tax-Exempt Bond Projects: Average Income may be selected on Line 10c in Part II of the IRS 8609 form for 4% Tax-Exempt Bond projects, **and** at least 40% of all residential units in the Project must be designated and occupied by tenants' income eligible at 60% AMI or less throughout the Extended Use Period. For some projects with 4% Tax-Exempt Bonds with market units, Virginia Housing may require extra designated low-income units (aka "cushion") in addition to the required Minimum Set-Aside units in the EUA.

Q.: Is the multiple building election in Line 8b in Part II on the IRS 8609 form required for Average Income? What if "No" is in Line 8b for my Project?

A.: The IRS AIT Final Rule does not require the project owner to make a multiple building election in Line 8b in Part II on the IRS 8609 form, which defines the Project. Virginia Housing requirements include choosing "Yes" on line 8b in Part II of the IRS 8609 form. "Yes" on Line 8b in Part II of the IRS 8609 form allows the project owner to identify buildings in the Project as one Project. The benefits of electing "Yes" on Line 8b for multiple building project includes grouping all units in the included buildings, which:

1. Expands the units available for unit transfers and meeting the Minimum Set-Aside,
2. Eliminates the required annual recertification of low-income units if all units in the multiple building "Project" are designated as low-income and occupied by qualified tenants,
3. Sets the income limits for the group of buildings in the Project

The IRS 8609 form rev. 12/2021, Part II is shown below:

Part II		First-Year Certification—Completed by Building Owners with respect to the First Year of the Credit Period	
7	Eligible basis of building (see instructions)	7	
8a	Original qualified basis of the building at close of first year of credit period	8a	
b	Are you treating this building as part of a multiple building project for purposes of section 42 (see instructions)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9a	If box 6a or box 6d is checked, do you elect to reduce eligible basis under section 42(i)(2)(B)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b	For market-rate units above the average quality standards of low-income units in the building, do you elect to reduce eligible basis by disproportionate costs of non-low-income units under section 42(d)(3)(B)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10	Check the appropriate box for each election. Caution: Once made, the following elections are irrevocable.		
a	Elect to begin credit period the first year after the building is placed in service (section 42(f)(1)) ▶	<input type="checkbox"/> Yes	<input type="checkbox"/> No
b	Elect not to treat large partnership as taxpayer (section 42(j)(5)) ▶	<input type="checkbox"/> Yes	
c	Elect minimum set-aside requirement (section 42(g)) (see instructions): <input type="checkbox"/> 20-50 <input type="checkbox"/> 40-60 <input type="checkbox"/> Average income <input type="checkbox"/> 25-60 (N.Y.C. only)		
d	Elect deep rent skewed project (section 142(d)(4)(B)) (see instructions)	<input type="checkbox"/> 15-40	

Under penalties of perjury, I declare that I have examined this form and accompanying attachments, and to the best of my knowledge and belief, they are true, correct, and complete.

If "No" is elected on Line 8b for some or all Buildings in the project, each Project may have separate requirements affecting the following program rules:

1. Annual report of the Qualified Group of Units for the Average Income Test
2. Annual report of the Applicable Fraction
3. Tenant Transfer Rules
4. Applicable Income Limits
5. Calculation of the 15-Year Compliance Period and 30+ Year Extended Use Period

Excluded Units

Q.: What are Excluded units? How do I report Excluded units?

A.: Excluded Units are units ineligible to be included in the Qualified Group of Units or the Applicable Fraction, **as of December 31** (e.g., approved Exempt units, or units affected by Casualty Loss). The project owner must annually report Excluded units to Virginia Housing in the annual Owner's Certification Year-End report. ***See the [Annual Tax Credit Reporting User Instructions](#)**

***Example:** Screenshot of an Occupancy and Demographics report formatted according to the AIT annual reporting instructions.

Excluded Unit for an approved Exempt Unit:

Building-BIN	Unit Status	Unit #	Qual Group of Units	Own Inc Desig	Own Rent Desig
VA01 - Building 1	Occupied	A1	x	40%	40%
VA01 - Building 1	Occupied	A2	x	40%	40%
VA01 - Building 1	Occupied	A3		70%	70%
VA01 - Building 1	Exempt Unit	A4	Excluded	50%	50%
VA01 - Building 1	Occupied	A5		50%	50%

Excluded Unit for an ineligible unit as of 12/31:

Building-BIN	Unit Status	Unit #	Qual Group of Units	Own Inc Desig	Own Rent Desig
VA01 - Building 1	Occupied	A1	x	40%	40%
VA01 - Building 1	Occupied	A2	x	40%	40%
VA01 - Building 1	Occupied	A3		70%	70%
VA01 - Building 1	Ineligible	A4	Excluded	50%	50%
VA01 - Building 1	Occupied	A5		50%	50%

Next Available Unit Rule 140% - Over Income

Q: Is the Next Available Unit Rule (NAU rule) only followed for properties that have market units, or if a property is at 100% affordable with no market, do households over the 140% of 60% need to be converted to 80%?

A: The NAU rule applies to all Tax Credit Projects. If the NAU rule is triggered in a project with market units, the unit designation must change once the next available market unit in the Building is leased to an eligible tenant at the unit designation needed for the project to maintain its AIT and Applicable Fraction.

Management Agents and operators of Tax Credit Projects must attend training annually and consistently follow the project owner and management agent procedures to determine the initial eligibility for all move-in and initial certification tenant files during the Extended Use Period.

Q: If the income of a tenant who was initially qualified at the 40% income limitation increases above the 60% income limitation, does the unit designation change to the 70%-unit designation, or does it remain a 40% designated unit? Does the next available unit need to be rented to a 40% qualified tenant to change the unit designation to a 70% unit?

A: A tenant whose income increases above the unit's income limitation does not automatically require a unit designation change. The tenant rent and unit designation only changes when the NAU rule applies and is satisfied.

The NAU rule applies when the tenant income in a unit designated at or below 60% exceeds 140% of the 60% limit or 140% of the 70% or 80% limit for units designated at 70% or 80% AMI respectively. Unit designations may change according to the project owner's written AIT policies and procedures for unit designation changes.

The Next Available Unit Rule (NAU Rule) for 100% Low-Income (LI) Projects: Lease all available units to qualified tenants at the designated unit income limitation **and** continue to charge the designated income limitation to the over-income household(s).

The Next Available Unit Rule (NAU Rule) for Projects with Market Units: Lease all low-income units at the designated unit income limitation **and** identify the next available **market unit(s)** of comparable or smaller size in the Project to lease to a qualified tenant, to replace the over income household and maintain the Applicable Fraction in the Building. The vacant low-income designated unit(s) must be leased to qualified households and **cannot** replace the over-income unit(s) under the NAU rule.

Applicable Fraction review and confirm if the next available market-rate unit square footage is smaller.

***For the example below, the income limits remain the same each year for Accomack County**

The One-Person **40%** income limitation is **\$18,680**. The tenant income must exceed 140% of the **60%** income limit, **\$28,020**, or **\$39,228** to trigger the NAU rule.

Multifamily Tax Subsidy Program (MTSP) Income Limits

	20%	30%	40%	50%	60%	70%	80%
HH SIZE	0.4	0.6	0.8		1.2	1.4	1.6
1	9,340	14,010	18,680	23,350	28,020	32,690	37,360

1. **2020** move-in income \$18,000 – No Change, 40% rent charged
2. **2022** recertification, income \$28,500 – No Change, 40% rent charged
3. **2024** recertification income **\$40,000** – Over-Income, 40% rent charged

***In the example above,** the unit designation on the over-income unit may remain at 40% AMI with the 40% rent charged in 100% low-income Projects, **or** in Mixed-Income Projects, the designated unit income limitation must be switched from 40% to market **after** the next available market unit in the Building is leased to a tenant qualified at or below the 40% income limitation **or** other income limitation at or below 80% AMI as needed for the Project to maintain the AIT and Applicable Fraction in the Building.

Q.: If the tenant's income increases above 70% or 80% AMI at recertification, does the unit designation change for the existing tenant?

A.: The IRS AIT Final Rule permits changes in the unit designation. However, a change in the unit designation is not required if the tenant's income changes above or below the designated unit income limitation.

***Considering the example for Accomack County above,** even though the tenant's income of \$40,000 in 2025 is above the 70%- and 80%-income limitation, the 40%-unit rent charged to is not required to change if the Project is 100% low-income. If the Project has market units, the 40% rent cannot change until a market unit of smaller or comparable size in the Project is leased to a qualified tenant to satisfy the over-income tenant and the NAU rule.

The project owner may consider including written policies and procedures to evaluate decreases in tenant income that creates a rent burden in the current unit as available to maintain tenancy and the applicable fraction

Annual Certification (Recertifications)

Q.: Are Annual Certifications (Recertifications) Required for Average Income Projects?

A.: The IRS does not require annual recertifications for projects with 100% low-income units. **December 2020**, Virginia Housing terminated the Agency requirement for 100% low-income Tax Credit Projects to complete one annual recertification after the move-in or initial certification. Project owners must implement procedures to ensure initial certifications in a 100% low-income Project are carefully and thoroughly completed and vetted with a quality control review to confirm and maintain program compliance.

Annual recertifications of tenant income with verification are required if the Project includes market unit(s). Annually, the Project must update the tenant records for all low-income tenants to confirm occupancy, student status, utility allowance, and rent for all low-income households in the tenant files, property records, and the online tenant compliance monitoring system. Contact your assigned Compliance Officer if you have any questions about the annual tenant certification and reporting requirements for your project.

Mixed-Use Mixed Income Projects

Q.: Can a market rate unit be designated as low-income in a mixed-income project if occupied by a qualified tenant to cure noncompliance?

A.: Yes, market-rate units can be designated as low-income and leased to a qualified tenant to confirm and ensure continued program compliance.

Proposed Unit Mix vs. Lease-up

Q.: Will there be an issue if the unit designations in the Project do not match the proposed unit mix of unit designations in the Tax Credit Allocation Application?

A: No. The project owner is expected to strategically lease the units and apply the income limitations at or below 80% AMI to meet the AIT and Applicable Fraction. The IRS AIT Final Rule requires the project owner to designate the unit's designation before the initial move-in during lease-up (e.g., new construction Projects) or by the end of the first taxable year for existing tenants (e.g., 2nd Credit Allocation).

Q: Why would a Developer/Owner opt for Average Income? Investors are concerned about a "Cliff" with Average Income that could lead to project failure with the Minimum Set-Aside. Is there any guidance to address the Investor concerns?

A: The "Cliff" has been used to describe the instances of noncompliance included in the Proposed IRS AIT guidance released in November 2020. The IRS AIT Final Rule clarifies the intent of the statutory program change and provides flexibility for the Housing Allocation Agencies to create procedures for the project owner and its management agent to manage the AIT requirements.

Virginia Housing is an advocate for the Average Income Minimum Set-Aside. There are many benefits of Average Income in our portfolio, including:

1. Offering a diverse mix of income limitations expands housing to support the workforce population with incomes between 60% and 80% AMI.
2. Assisting with a quick lease-up or reducing turnover with strategic leasing procedures to prevent displacement of qualified existing tenants.
3. Allowing a Higher Applicable Fraction for more equity for Investor partners.

Project owners are encouraged to discuss the IRS AIT Final Rule with their Investor partners and industry professionals to manage the program and reporting requirements. The IRS AIT Final Rule also includes a correction period for identified noncompliance by the project owner or the Virginia Housing. Contact your assigned Compliance Officer to request the waiver of noncompliance for your project.

Average Income Test Annual Reporting

Q: When do we send the report of the identified Qualified Group of Units for Average Income Test Minimum Set-Aside, the Excluded Units, Changed Units, and Applicable Fraction for all Projects?

A: Virginia Housing requires the project owner to annually report the AIT QGU, Applicable Fraction QGU, Excluded Units, and Unit Designation changes with the annual Owner's Certification Year End Report, which is usually due in the first quarter of each year.

*See the [Annual Tax Credit Reporting User Instructions](#)

Noncompliance Reporting - Excluded Units & Written Waiver

Q: If a tenant is over-income, and I correct the noncompliance, do I have to report it to Virginia Housing?

A: Noncompliance identified and corrected before notification of an audit or as of December 31 each year, is not reportable as noncompliance to the IRS. Any unit noncompliance as of December 31, (uninhabitable, over-income, or other program rule violation), must be excluded from the annual Applicable Fraction and Qualified Group of units and reported in the annual Owner's Certification Year-End report.

The IRS AIT Final Rule permits a waiver of noncompliance for AIT Projects, which must be requested in writing by the project owner and approved in writing by Virginia Housing. Contact your assigned Compliance Officer if you have questions.