26 CFR 601.201: Rulings and determination letters.
(Also Part I, Sections 25, 103, 143; 1.25–4T, 1.103–1, 6a.103A–2.)

Rev. Proc. 97–17

SECTION 1. PURPOSE

This revenue procedure provides issuers of qualified mortgage bonds, as defined in § 143(a) of the Internal Revenue Code, and issuers of mortgage credit certificates, as defined in § 25(c), with a list of the average annual aggregate principal amount of mortgages executed during the calendar years 1992, 1993, and 1994 for each state, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

SECTION 2. BACKGROUND

.01 Section 103(a) provides that, except as provided in § 103(b), gross income does not include interest on any state or local bond. Section 103(b)(1) provides that § 103(a) shall not apply to any private activity bond that is not a "qualified bond" within the meaning of § 141. Under § 141(e) the term "qualified bond" includes any private activity bond that (1) is a qualified mortgage bond, (2) meets the volume cap requirements under § 146, and (3) meets the applicable requirements under § 147.

.02 Section 143(a)(1)(A) provides that the term "qualified mortgage bond" means a bond that is issued as part of a qualified mortgage issue. Section 143(a)(2)(A) provides that the term "qualified mortgage issue" means an issue of one or more bonds by a state or political subdivision thereof, but only if (i) all proceeds of the issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences; (ii) the issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), (i), and (m)(7) of § 143; (iii) the issue does not meet the private business tests of paragraphs (1) and (2) of § 141(b); and (iv) with respect to amounts received more than 10 years after the date of issuance, repayments of $250,000 or more of principal on financing provided by the issue are used not later than the close of the first semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds that are part of the issue.

.03 An issue of bonds meets the requirements of subsection (h) of § 143 only if a sufficient portion of the bond proceeds is made available (with reasonable diligence) for owner-financing of targeted area residences for at least one year after the date on which owner-financing is first made available with respect to targeted area residences. The applicable portion of bond proceeds to be made available must be equal to or greater than an amount that is the lesser of (1) 20 percent of the proceeds of the issue that are devoted to providing owner-financing, or (2) 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences in targeted areas within the jurisdiction of the issuing authority.

.04 A targeted area residence, defined in § 143(j), is a residence in either a qualified census tract or an area of chronic economic distress. A "qualified census tract" means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income, based on the most recent decennial census for which data are available. See Rev. Proc. 93–38, 1993–2 C.B. 483, for the most recent list of qualified census tracts for each state and the District of Columbia; that list is based on data from the 1990 census. Section 143(j)(3) defines an "area of chronic economic distress" ("ACED") as an area (i) designated by the state as meeting the standards established by the state for purposes of § 143(j), and (ii) the designation of which has been approved by the Secretary of Treasury and the Secretary of Housing and Urban Development in accordance with criteria set forth in § 143(j)(3)(B). See Rev. Proc. 88–31, 1988–1 C.B. 832, for the procedures to obtain an ACED designation.

.05 When determining the portion of the proceeds that must be made available for owner-financing of targeted area residences under the 40 percent limitation in § 143(h)(2), issuers of mortgage revenue bonds may rely upon the amount produced by the following safe harbor formula described in § 6a.103A–2(h)(3) of the temporary Income Tax Regulations (issued under former § 103A(h) of the 1954 Code):

$$P = \frac{.2\ (X \times Z)}{Y} \quad \text{where}$$

P = Required portion to be made available to targeted areas,
X = Average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences within

P = Required portion to be made available to targeted areas,
the state in which the issuing jurisdiction is located,
Y = The total population within the state, based on the most recent decennial census for which data are available, and
Z = The total population in the targeted areas located within the issuer's jurisdiction, based on the most recent decennial census for which data are available.

An issuing jurisdiction may use estimates of X published by the Treasury Department when computing the safe harbor formula. The specified portion required to be made available in targeted areas is a minimum amount so that more than the minimum amount may be (but need not be) made available in targeted areas. See § 6a.103A–2(h)(4).

.06 Section 25(c)(2)(A)(ii) provides that a state or a political subdivision thereof may elect to exchange all or part of its qualified mortgage bond authority for authority to issue the mortgage credit certificates described in § 25(c). The election must be in accordance with § 1.25–4T(c).

.07 Section 25(a) provides, in general, that the recipient of a mortgage credit certificate (MCC) may claim a credit against income tax equal to the product of the certificate credit rate and the interest paid or accrued by the taxpayer during the taxable year on the remaining principal of the certified indebtedness amount.

.08 Section 25(b)(2) defines the certified indebtedness amount as the amount of indebtedness that is incurred by the taxpayer to acquire the taxpayer's principal residence, as a qualified home improvement loan, or as a qualified rehabilitation loan, and is specified in the MCC.

.09 Section 25(c)(2)(A)(iii)(V) provides that the indebtedness certified by MCCs must meet the requirements of § 143(h) concerning the portion of loans to be placed in targeted areas. See also § 1.25–4T(g) of the temporary regulations.

.10 The average annual mortgage originations for 1990, 1991, and 1992 were published in Rev. Proc. 95–14, 1995–1 C.B. 520. Section 5.01 of Rev. Proc. 95–14 provides that issuers may continue to rely on the average annual mortgage originations in Rev. Proc. 95–14 until those averages are rendered obsolete by a new revenue procedure, such as this one.

.11 The average annual mortgage originations are developed by the Department of Housing and Urban Development (HUD) for publication by the Service. The mortgage originations are based on data and procedures that are employed in the HUD-coordinated surveys of mortgage lending activity for 1- to 4-family dwellings. The estimates of mortgage volume for 1- to 4-family dwellings in each state are adjusted from a special tabulation of the HUD-sponsored Annual Housing Survey to reflect only the amount of mortgages originated that were secured by owner-occupied residences.

SECTION 3. APPLICATION

The average annual mortgage originations, based on mortgage loan originations secured by owner-occupied residences during 1992, 1993, and 1994, for each state, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands are listed below (dollars in millions).

	Gross Mortgage Originations for Owner-Occupied Homes			Three-Year	Average Annual
State	1992	1993	1994	Total	Mortgage Originations
Alabama	9,292	10,688	7,835	27,815	9,272
Alaska	2,678	3,581	2,393	8,652	2,884
Arizona	13,811	22,004	15,478	51,293	17,098
Arkansas	5,110	5,746	4,303	15,159	5,053
California	110,252	119,554	105,353	335,159	111,720
Colorado	21,599	27,361	16,865	65,825	21,942
Connecticut	9,139	13,117	8,487	30,743	10,248
Delaware	2,042	1,735	1,402	5,179	1,726
District of Columbia	978	1,931	1,191	4,100	1,367
Florida	42,634	49,952	41,612	134,198	44,733
Georgia	21,522	26,963	18,487	66,972	22,324
Hawaii	5,068	5,118	3,649	13,835	4,612
Idaho	3,502	3,757	2,963	10,222	3,407
Illinois	33,894	34,271	27,148	95,313	31,771
Indiana	16,693	20,016	14,648	51,357	17,119
Iowa	4,662	4,204	3,056	11,922	3,974
Kansas	6,986	7,096	4,676	18,758	6,253
Kentucky	8,656	9,125	7,098	24,879	8,293
Louisiana	6,033	7,169	6,091	19,293	6,431
Maine	2,304	2,914	2,360	7,578	2,526
Maryland	23,366	28,045	32,406	83,817	27,939
Massachusetts	14,513	19,401	11,760	45,674	15,225
Michigan	21,014	22,918	15,466	59,398	19,799
Minnesota	26,875	29,609	15,632	72,116	24,039
Mississippi	4,122	4,716	3,218	12,056	4,019
Missouri	14,251	15,995	11,266	41,512	13,837
Montana	2,589	2,912	1,777	7,278	2,426

	Gross Mortgage Originations for Owner-Occupied Homes¬			Three-Year¬	Average Annual
State¬	1992¬	1993¬	1994¬	Total¬	Mortgage Originations
Nebraska¬	4,242¬	5,070¬	2,188¬	11,500¬	3,833
Nevada¬	5,960¬	7,282¬	7,568¬	20,810¬	6,937
New Hampshire¬	2,415¬	3,156¬	2,461¬	8,032¬	2,677
New Jersey¬	22,194¬	19,736¬	11,805¬	53,735¬	17,912
New Mexico¬	4,078¬	4,656¬	3,634¬	12,368¬	4,123
New York¬	36,824¬	36,750¬	33,956¬	107,530¬	35,843
North Carolina¬	21,943¬	23,303¬	16,221¬	61,467¬	20,489
North Dakota¬	2,801¬	3,626¬	2,090¬	8,517¬	2,839
Ohio¬	25,532¬	29,422¬	21,376¬	76,330¬	25,443
Oklahoma¬	6,481¬	7,387¬	5,474¬	19,342¬	6,447
Oregon¬	5,925¬	6,559¬	5,267¬	17,751¬	5,917
Pennsylvania¬	27,263¬	33,214¬	20,361¬	80,838¬	26,946
Rhode Island¬	2,071¬	3,301¬	1,720¬	7,092¬	2,364
South Carolina¬	8,019¬	8,470¬	6,447¬	22,936¬	7,645
South Dakota¬	1,579¬	1,565¬	922¬	4,066¬	1,355
Tennessee¬	14,029¬	18,395¬	13,458¬	45,882¬	15,294
Texas¬	41,049¬	49,761¬	41,681¬	132,491¬	44,164
Utah¬	9,138¬	11,988¬	7,381¬	28,507¬	9,502
Vermont¬	992¬	1,260¬	891¬	3,143¬	1,048
Virginia¬	32,722¬	42,008¬	29,670¬	104,400¬	34,800
Washington¬	18,779¬	22,076¬	18,063¬	58,918¬	19,639
West Virginia¬	2,417¬	2,658¬	2,039¬	7,114¬	2,371
Wisconsin¬	13,244¬	12,833¬	8,664¬	34,741¬	11,580
Wyoming¬	1,527¬	1,490¬	1,834¬	4,851¬	1,617
Guam¬	99¬	94¬	88¬	281¬	94
Puerto Rico¬	5,008¬	7,354¬	7,990¬	20,352¬	6,784
Virgin Islands¬	104¬	66¬	74¬	244¬	81

SECTION 4. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 95–14 is obsolete except as provided in section 5.02 of this revenue procedure.

SECTION 5. EFFECTIVE DATES

.01 Issuers of qualified mortgage bonds or mortgage credit certificates may rely on this revenue procedure during the period beginning March 3, 1997, the date of publication of this revenue procedure in the Internal Revenue Bulletin, and ending on the date as of which this revenue procedure is rendered obsolete by a new revenue procedure.

.02 With respect to qualified mortgage bonds sold, and bond authority elected to be exchanged for authority to issue mortgage credit certificates, before April 2, 1997, 30 days after the publication of this Rev. Proc. 97–17 in the Internal Revenue Bulletin, issuers may continue to rely on the list of average annual mortgage originations that is contained in Rev. Proc. 95–14.

Drafting Information

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