

By direction of the Commission,
Commissioner Wilson dissenting.

April J. Tabor,
Secretary.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Arrival Restrictions Applicable to Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within Uganda

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Announcement of arrival restrictions.

SUMMARY: This document announces the decision of the Secretary of the Department of Homeland Security (DHS) to direct all flights to the United States carrying persons who have recently traveled from, or were otherwise present within, Uganda to arrive at one of the United States airports where the United States government is focusing public health resources to implement enhanced public health measures. For purposes of this document, a person has recently traveled from Uganda if that person departed from, or was otherwise present within, Uganda within 21 days of the date of the person's entry or attempted entry into the United States. Also, for purposes of this document, crew and flights carrying only cargo (*i.e.*, no passengers or non-crew), are excluded from the measures herein.

DATES: The arrival restrictions apply to flights departing after 11:59 p.m. Eastern Daylight Time on October 10, 2022. Arrival restrictions continue until cancelled or modified by the Secretary of DHS and notice of such cancellation or modification is published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Stephanie Watson, Office of Field Operations, U.S. Customs and Border Protection at 202-255-7018.

SUPPLEMENTARY INFORMATION:

Background

Ebola disease, caused by the virus genus *Ebolavirus*, is a severe and often fatal disease that can affect humans and non-human primates. Disease transmission occurs via direct contact

with bodily fluids (*e.g.*, blood, mucus, vomit, urine). The first known Ebola disease outbreak occurred in 1976. From 2013–2016, the largest recorded Ebola disease outbreak occurred in West Africa, primarily affecting Guinea, Liberia, and Sierra Leone, with cases exported to seven additional countries across three continents, including the United States. The epidemic demonstrated the potential for Ebola disease to become an international crisis in the absence of early intervention. Further, Ebola disease can have substantial medical, public health, and economic consequences if it spreads to densely populated areas. As such, Ebola disease may present a threat to United States health security given the unpredictable nature of outbreaks and the interconnectedness of countries through global travel.

On September 19, 2022, Uganda reported a single, fatal case of Ebola disease due to the Sudan virus (species *Sudan ebolavirus*). Earlier in September 2022, community reports had described occurrences of strange illness and sudden deaths in the affected area. Some of these unexplained deaths were in persons who had known contact with the index patient. As of October 4, 2022, a total of 43 confirmed cases with 10 confirmed deaths have been reported from five districts within Uganda. Centers for Disease Control and Prevention (CDC) has issued an Alert—Level 2, Practice Enhanced Precautions advising against non-essential travel to several regions in Uganda where the Ministry of Health in Uganda has declared an Ebola virus outbreak.¹ The Centers for Disease Control and Prevention (CDC) is closely monitoring an outbreak of Ebola virus in five districts within Uganda. In order to assist in preventing or limiting the introduction and spread of this communicable disease into the United States, the Departments of Homeland Security and Health and Human Services, including CDC, and other agencies charged with protecting the homeland and the American public, are currently implementing enhanced public health measures at five United States airports that receive the largest number of travelers originating from Uganda. To ensure that all travelers with recent presence in Uganda arrive at one of these airports, DHS is directing all flights to the United States carrying such persons to arrive at airports where enhanced public health measures are

being implemented. While DHS, in coordination with other applicable federal agencies, anticipates working with the operators of aircraft in an endeavor to identify potential travelers who have recently traveled from, or were otherwise present within, Uganda prior to boarding, operators of aircraft will remain obligated to comply with the requirements of this notice. Department of Defense (DoD) flights, via either military aircraft or contract flights, will be managed by DoD in accordance with HHS guidelines.

Notice of Arrival Restrictions Applicable to All Flights Carrying Persons Who Have Recently Traveled From or Were Otherwise Present Within Uganda

Pursuant to 6 U.S.C. 112(a), 19 U.S.C. 1433(c), and 19 CFR 122.32, DHS has the authority to limit the locations where all flights entering the United States from abroad may land. Under this authority and effective for flights departing after 11:59 p.m. Eastern Daylight Time on October 10, 2022, I hereby direct all operators of aircraft to ensure that all flights (with the exception of those operated or contracted by DoD) carrying persons who have recently traveled from, or were otherwise present within, Uganda only land at one of the following airports:

- Hartsfield-Jackson Atlanta International Airport (ATL), Georgia;
- Chicago O'Hare International Airport (ORD), Illinois;
- Newark Liberty International Airport (EWR), New Jersey;
- John F. Kennedy International Airport (JFK), New York;
- Washington-Dulles International Airport (IAD), Virginia;

This direction considers a person to have recently traveled from Uganda if that person departed from, or was otherwise present within, Uganda within 21 days before the date of the person's entry or attempted entry into the United States. Also, for purposes of this document, crew and flights carrying only cargo (*i.e.*, no passengers or non-crew), are excluded from the applicable measures set forth in this notification. This direction is subject to any changes to the airport landing destination that may be required for aircraft and/or airspace safety, as directed by the Federal Aviation Administration.

This list of designated airports may be modified by the Secretary of Homeland Security in consultation with the Secretary of Health and Human Services and the Secretary of Transportation. This list of designated airports may be modified by an updated publication in

¹ CDC, Ebola in Uganda Alert—Level 2, Practice Enhanced Precautions, CDC (Oct. 4, 2022), <https://wwwnc.cdc.gov/travel/notices/alert/ebola-in-uganda>.

the **Federal Register** or by posting an advisory to follow at www.cbp.gov. The restrictions will remain in effect until superseded, modified, or revoked by publication in the **Federal Register**.

For purposes of this **Federal Register** document, “United States” means the territory of the several States, the District of Columbia, and Puerto Rico.

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9967]

RIN 1545–BO92

Section 42, Low-Income Housing Credit Average Income Test Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations setting forth guidance on the average income test for purposes of the low-income housing credit. If a building is part of a residential rental project that satisfies this test, the building may be eligible to earn low-income housing credits. These final and temporary regulations affect owners of low-income housing projects, tenants in those projects, and State or local housing credit agencies that monitor compliance with the requirements for low-income housing credits.

DATES:

Effective date: These regulations are effective on October 12, 2022.

Applicability date: For the applicability date of the temporary regulations, see § 1.42–19T(f).

FOR FURTHER INFORMATION CONTACT: Dillon Taylor at (202) 317–4137.

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 42 of the Internal Revenue Code (the Code).

The Tax Reform Act of 1986, Public Law 99–514, 100 Stat. 2085 (1986 Act), created the low-income housing credit under section 42 of the Code.

Section 42(a) provides that the amount of the low-income housing credit for any taxable year in the credit period is an amount equal to the applicable percentage (effectively, a credit rate) of the qualified basis of each qualified low-income building.

Section 42(c)(1)(A) provides that the qualified basis of any qualified low-income building for any taxable year is an amount equal to (i) the applicable fraction (determined as of the close of the taxable year) of (ii) the eligible basis of the building (determined under section 42(d)). Section 42(c)(1)(B) defines applicable fraction as the smaller of the unit fraction or floor space fraction. The unit fraction is the number of low-income units in the building over the number of residential rental units (whether or not occupied) in the building. The floor space fraction is the total floor space of low-income units in the building over the total floor space of residential rental units (whether or not occupied) in the building. Subject to certain exceptions set forth in section 42(i)(3)(B), a low-income unit is defined in section 42(i)(3) as any unit in a building if the unit is rent-restricted and the individuals occupying the unit meet the income limitation under section 42(g)(1) that applies to the project of which the building is a part. Section 42(d)(1) and (2) define the eligible basis of a new building or an existing building, respectively.

Section 42(c)(2) defines a qualified low-income building as any building which is part of a qualified low-income housing project at all times during the compliance period (the period of 15 taxable years beginning with the first taxable year of the credit period). To qualify as a low-income housing project, one of the section 42(g) minimum set-aside tests, as elected by the taxpayer, must be satisfied.

Prior to the enactment of the Consolidated Appropriations Act of 2018, Public Law 115–141, 132 Stat. 348 (2018 Act), section 42(g) set forth two minimum set-aside tests, known as the 20–50 test and the 40–60 test. If a taxpayer elects to apply the 20–50 test, at least 20 percent of the residential units in the project must be both rent-restricted and occupied by tenants whose gross income is 50 percent or less of the area median gross income (AMGI). If a taxpayer elects to apply the 40–60 test, at least 40 percent of the residential units in the project must be both rent-restricted and occupied by tenants whose gross income is 60 percent or less of AMGI.

The 2018 Act added section 42(g)(1)(C), which contains a third

minimum set-aside test option—the average income test. If a taxpayer elects to apply the average income test, a project meets the minimum requirements of the average income test if 40 percent or more of the residential units in the project are both rent-restricted and occupied by tenants whose income does not exceed the imputed income limitation designated by the taxpayer with respect to the specific unit. (In the case of a project described in section 142(d)(6)), “40 percent” in the preceding sentence is replaced with 25 percent.) Section 42(g)(1)(C)(ii)(I)–(III) provides special rules relating to the income limitation for the average income test. Specifically, unlike the 20–50 and 40–60 tests, section 42(g)(1)(C)(ii)(I) requires the taxpayer to designate each unit’s imputed income limitation that is taken into account for purposes of the average income test. Section 42(g)(1)(C)(ii)(II) requires the average of the imputed income limitations designated under section 42(g)(1)(C)(ii)(I) not to exceed 60 percent of AMGI. Finally, section 42(g)(1)(C)(ii)(III) requires the imputed income limitation designated for any unit to be 20, 30, 40, 50, 60, 70, or 80 percent of AMGI.

Generally, under section 42(g)(2)(D)(i), if the income for the occupant of a low-income unit rises above the relevant income limitation, the unit continues to be treated as a low-income unit if the income of the occupant had initially met the income limitation and the unit continues to be rent-restricted. Section 42(g)(2)(D)(ii), however, provides an exception to the general rule in the case of the 20–50 test or the 40–60 test. Under this exception, the unit ceases to be treated as a low-income unit if two disqualifying conditions occur.

- The first condition is that the occupant’s income increases above 140 percent of the income limitation applicable under section 42(g)(1) (applicable income limitation).

- The second condition is that a new occupant whose income exceeds the applicable income limitation occupies any residential rental unit in the building of a comparable or smaller size.

In the case of a deep rent skewed project described in section 142(d)(4)(B) of the Code “170 percent” is substituted for “140 percent” in applying the applicable income limitation under section 42(g)(1), and the second condition is that any low-income unit in the building is occupied by a new resident whose income exceeds 40 percent of AMGI.

The exception contained in section 42(g)(2)(D)(ii) is referred to as the next