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IRS Releases a Revised Form 8703— Longer and More Detailed

On June 15, 2011, the IRS released a [revised Form 8703 “Annual Certification of a Residential Rental Project.”](#) The annual filing of this Form has been required since 1986 of operators of multi-family housing projects financed with tax-exempt bonds issued under Section 142(d) of the Internal Revenue Code of 1986, as amended.

The new version of Form 8703 is considerably more detailed than the prior version. Four new questions were added as a result of changes made by the Housing Assistance Tax Act of 2008 (commonly referred to as HERA). The new questions are designed for projects that are entirely low-income. Operators of these projects will no longer have to answer the questions requiring calculation of percentage of low-income occupancy. However, operators of projects that are not entirely low income will have to answer these new questions as well as the old questions. In addition, a section about the bonds used to finance the project was added so that the Information Return 8038 for the related bonds could be located and cross-checked more easily by the Internal Revenue Service.

Failure to file Form 8703 annually does not affect the tax-exemption of the related bond financing, but does subject the operator of the financed project to a monetary penalty (\$100 per failure to file). Also, when a Section 142(d) bond issue financing a project is audited, one of the standard questions asks the project owner or operator to produce copies of filed 8703s. The failure to file can cause problems on audit because such failure can cause the IRS to raise questions about actual low income set aside compliance by the owner, which may, in turn, if the questions raised are not adequately answered, adversely affect the tax-exemption of the related bonds.

This *GT Alert* was prepared by Vanessa Albert Lowry and Carla Young. Project owners can direct questions about the revised Form 8703 to:

- [Vanessa Albert Lowry](#) – 215.988.7811 | lowryv@gtlaw.com
- [Carla Young](#) – 703.749.1311 | youngc@gtlaw.com
- Any member of the [Greenberg Traurig Public Finance Group](#)
- Or their [Greenberg Traurig](#) attorney

Albany 518.689.1400	Houston 713.374.3500	Philadelphia 215.988.7800
Amsterdam +31 20 301 7300	Las Vegas 702.792.3773	Phoenix 602.445.8000
Atlanta 678.553.2100	Los Angeles 310.586.7700	Sacramento 916.442.1111
Austin 512.320.7200	London* +44 (0) 203 349 8700	San Francisco 415.655.1300
Boston 617.310.6000	Miami 305.579.0500	Shanghai +86 21 6391 6633
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Denver 303.572.6500	Orlando 407.420.1000	Tyson's Corner 703.749.1300
Fort Lauderdale 954.765.0500	Palm Beach County North 561.650.7900	Washington, D.C. 202.331.3100
	Palm Beach County South 561.955.7600	White Plains 914.286.2900

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