

Mortgage Credit Certificates Program Manual



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**Kentucky Housing Corporation
2011 Mortgage Credit Certificate
Program Manual**

**ARTICLE I
INTRODUCTION TO THE 2011 MCC PROGRAM**

Section 1. General Overview Mortgage Credit Certificates (MCCs) are an alternative to mortgage revenue bond financing and a means of providing financial assistance to first-time home buyers (with some exceptions) for the purchase of qualifying residences. The 2011 MCC Program (Program) is designed to benefit purchasers of certain new or existing housing units located in the Commonwealth of Kentucky (Commonwealth).

What is an MCC?

An MCC “converts” a portion of an available mortgage loan interest deduction into a credit against the homeowner’s federal income taxes. This tax credit has the effect of reducing the mortgage interest rate and mortgage loan payments for persons who make qualified purchases of residences by reducing their federal income tax liability. Table I-1 shows how an MCC can reduce the “effective” mortgage interest rate on a conventional mortgage.

What is the difference between a “tax credit” and a “tax deduction”?

A “tax credit” entitles a taxpayer to subtract the amount of the credit from his or her total federal income tax liability. A “tax deduction,” on the other hand, is subtracted from adjusted gross income before federal income taxes are computed.

How does an MCC “reduce” the mortgage interest rate?

As Table I-1 indicates, a borrower who purchases an eligible residence with a 5.50 percent fixed-rate, 30-year mortgage of \$100,000 would pay \$5,500 in interest payments during the first year of the mortgage. If the borrower holds a 25 percent MCC, up to \$1,375 (25 percent of \$5,500) of the mortgage interest paid could be converted into a federal tax credit, which reduces that borrower’s federal income tax liability, i.e., the credit reduces the amount of federal taxes payable by the borrower, up to the amount of the credit. The remaining 75 percent of the mortgage interest paid, in this case, \$4,125, can still be taken as a tax deduction in arriving at the borrower’s adjusted gross income, thus reducing the amount of the borrower’s income subject to federal income taxation. Table I-1 shows that if this borrower has an annual tax liability of \$1,375 or more after all other deductions and credits, the effective rate of interest paid on the mortgage is reduced to 4.125 percent after the MCC tax credit is taken into account, i.e., annual interest of \$4,125 on a \$100,000 mortgage loan corresponds to a 4.125 percent interest rate on that loan. This effect, however, is

achieved only when the MCC holder has a sufficient income tax liability to receive the entire benefit from the MCC tax credit.

Table I-1: Effective Reduction of Mortgage Interest Rate Through Use of a 25% MCC

Amount of Mortgage¹	Rate on Conventional loan	First-Year Interest Payments¹	First-Year Tax Credit	After-Credit Interest Paid²	Effective Interest Rate³
\$100,000	5.50%	\$5,500	\$1,375	\$4,125	4.125%

¹This figure is for the first year only. Assuming equal monthly payments amortizing principal and interest over 30 years, the amount of interest paid each year and, correspondingly, the MCC tax credit will decrease for each subsequent year.

² Derived by deducting the annual MCC tax credit from annual mortgage interest payments. This amount may be taken as a deduction for federal income tax purposes.

³Calculated for comparison purposes only and is not the annual percentage rate applicable to any specific mortgage loan for any specific period or for Truth-In-Lending Act purposes.

The MCC tax credit reduces the amount of federal income taxes otherwise due by the borrower. The benefit to the borrower cannot exceed the borrower’s federal income tax liability for the year, after other credits and deductions have been taken into account. However, if the borrower is unable to use all of the available MCC tax credit in any year, the unused portion of the tax credit can be carried forward three tax years or until used, whichever comes first. A borrower may want to consider adjusting his or her federal income tax withholding (by filing an amended IRS Form W-4) to spread the benefit of the MCC tax credit over the entire year.

How does a borrower obtain an MCC?

A borrower who is purchasing a new or existing residence applies for an MCC through a participating lender at the same time as applying for a mortgage loan.

May an MCC be used in connection with a refinanced loan or with an assumption?

An MCC cannot presently be issued to a homeowner who is refinancing an existing mortgage loan, except in connection with certain construction loans. **An MCC may be assumable by certain qualified buyers. See Article IV.**

What are the purchase price and income limitations on MCC applicants?

MCCs are available to eligible homebuyers purchasing eligible homes in the Commonwealth. Kentucky Housing Corporation (KHC) will **not** underwrite the loans made by the lenders. Rather, all underwriting and execution of required state and federal certifications or affidavits will be performed by participating lenders in the Program. KHC will review executed certifications and affidavits from lenders in order to determine qualification and eligibility of each applicant for an MCC. Participating lenders will process the underlying mortgage loans using

standard procedures, with adjustments to those procedures as needed in order to satisfy the Program requirements.

What is the amount of MCCs available under the Program?

KHC has elected not to issue \$50,000,000 of qualified private activity bonds during the calendar year 2011. Such election authorizes KHC to issue MCCs in a maximum aggregate amount of \$12,500,000 under the Program. MCC authority will be allocated by KHC on a first-come, first-served basis among participating lenders and prospective borrowers, provided that KHC will set aside at least 20 percent of such allocation for residences located in Targeted Areas, as further set forth in Article IV, Section 7 herein.

It is impossible to determine the exact number of MCCs available under the Program. Since the aggregate amount of MCCs that may be issued under the Program is limited by federal law, no assurance can be given by KHC that sufficient MCC authority will be available at any time except by the endorsement and return of an MCC reservation by KHC.

How much must the authority reserve for MCCs and how is that targeted?

The MCC authority available shall equal, at any time, the amount of such authority committed to the Program by KHC, less the amount of such MCC authority previously committed to or used for MCCs.

Of the total MCC authority, 20 percent will be reserved by KHC for eligible residences located in targeted areas for at least one year after the date KHC begins to accept applications for MCCs under the Program. See Article IV, Section 7 herein.

Section 2. Purpose of this Program Manual This Program Manual describes the MCC Program and sets forth the roles of KHC and the participating lenders and the requirements applicable to the lenders and the borrowers. This document also contains a description of the Program processing procedures and Program administration. Loan processing forms are contained in a separate packet of documents. KHC may revise the Program, the Program forms, and this Program Manual from time to time.

KHC encourages eligible borrowers to apply for an MCC after receiving an explanation of the Program from a participating lender. Participating lenders are expected to be well-informed about all the local, state, and federal regulations and eligibility criteria, as contained in this Program Manual, so that both applicants and sellers are aware of these restrictions before the application for an MCC is taken by the participating lender. The participating lender shall reject those applications where the submitted information indicates that the applicant or the residence does not qualify for the Program.

Section 3. General Definitions As used in this Program Manual and all Program documents, unless the context requires otherwise, the following words and terms have the meanings set forth below:

- **Acquisition Cost**—Defined under Section 143(k)(3) of the Code.
- **Agreement**—The lender Participation Agreement between KHC and each lender in the form attached hereto as Appendix D.
- **Applicant/Borrower**—Any person who applies for an MCC under the Program.
- **Certification**—A certification filed in connection with the Program made under oath and subject to penalties of perjury.
- **Closing Date**—The date on which the loan closing occurs, i.e., the deed is recorded or settlement date on HUD-1.
- **Code**—The Internal Revenue Code of 1986, as amended, and applicable regulations promulgated thereunder.
- **Eligible Residence**—A new or existing residence which will be owner-occupied, must be located in the Commonwealth, and must meet the criteria set forth in Article IV of this Program Manual. No more than 15 percent of an otherwise eligible residence may be used for purposes other than as a principal residence.
- **Existing Residence**—A residence that has been previously occupied prior to loan commitment.
- **First-Time Home Buyer**—Any person who has not held an ownership interest in a principal residence at any time during the preceding three years ending on the closing date.
- **KHC**—Kentucky Housing Corporation, a *de jure* municipal corporation and political subdivision of the Commonwealth.
- **Lender/Participating Lender**—Any person, institution, or entity that provides financing for the acquisition of an eligible residence and that has entered into a lender Participation Agreement with KHC.
- **Loan**—An extension of credit provided or to be provided to a borrower by the participating lender in connection with an MCC to finance the purchase of an eligible residence.

- **MCC Program/Program**—The 2011 Mortgage Credit Certificate Program, as authorized by KHC, and the administration procedures and forms specified in this Program Manual.
- **Mortgage Credit Certificate/MCC**—A certificate issued by KHC to establish eligibility for a tax credit against the federal income tax liability of a borrower purchasing an eligible residence. Each MCC is issued by KHC pursuant to Section 25 of the Code and applicable state and local requirements.
- **Mortgage Credit Certificates Rate**—The rate specified by KHC in each Mortgage Credit Certificate. The rate established by KHC for the Program is 25 percent for loans to purchase an eligible residence.
- **Mortgage Revenue Bond**—A “qualified mortgage bond” as defined in Section 143(a) of the Code.
- **New residence**—A residence that is proposed to be constructed, is currently under construction, or is existing but not previously occupied.
- **Ownership**—Any of the following interests in an eligible residence: (a) a fee simple interest; (b) a joint tenancy, a tenancy in common, or a tenancy by the entirety; (c) the interest of a tenant-shareholder in a cooperative; (d) a life estate; (e) a land contract, i.e., a contract pursuant to which possession and the benefits and burdens of ownership are transferred, although legal title is not transferred until some later time; (f) an interest held in trust for the applicant (whether or not created by the applicant) that would constitute a present ownership interest if held directly by the applicant; or (g) a lease with an option to purchase for a nominal sum.

Ownership does not include: (a) a remainder interest; (b) a lease without an option to purchase or a lease with an option to purchase at fair market value; (c) a mere expectancy to inherit an interest in a principal residence; (d) the interest in a residence that an applicant acquires on the execution of a purchase contract; or (e) an interest in other than a principal residence during the three years prior to the origination of the loan.
- **Owner-Occupied**—An eligible residence occupied by a person with an ownership interest.
- **Program Manual**—This 2011 Mortgage Credit Certificate Program Manual, as revised by KHC from time to time.
- **Prohibited Mortgage loan**—A mortgage loan financed by any Veterans’ Mortgage Bonds or Mortgage Revenue Bonds.
- **Purchase Agreement**—The signed agreement between an applicant and the seller for the purchase of an eligible residence.

- **Purchase Price Limits**—Limits applicable to the Program. The acquisition cost of a residence may not exceed the applicable purchase price limits.
- **Related Person**—As such term is defined in the Code.
- **Residence**—A structure intended for occupancy by one family, regardless of the date of first occupancy. The term includes any manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and which is of a kind customarily used at a fixed location. The term does not include structures with more than one separate living unit, mobile homes, recreational vehicles, campers and trailers, unimproved land, investment or rental property, vacation homes, or residences primarily intended to be used in trade or business.
- **Targeted Area**—Any of the areas within the Commonwealth listed in Appendix B. Such areas are not subject to the three-year, first-time, home buyer restriction. (See Section IV).
- **Veterans' Mortgage Bond**—As defined in Section 143 of the Code.

**ARTICLE II
REPRESENTATIONS AND WARRANTIES OF THE PARTICIPATING LENDER**

Section 1. Representations, Warranties, and Covenants of the Lender

- (a) The lender is duly organized, validly existing, and in good standing under the laws of the jurisdiction under which it was organized and has the power and authority, corporate and other, to own its properties and to carry on its business as now being conducted, and is duly qualified to do such business, including the origination of loans, in the Commonwealth and wherever such qualification is required, and has at least one office which is responsible for originating loans in the Commonwealth;
- (b) The lender has complied and will comply with all the terms, conditions and requirements of this Program Manual, and the loans meet and will meet all of the requirements set forth in this Program Manual, unless any such shall have been waived by KHC in writing;
- (c) In connection with the issuance of an MCC, the lender has not collected and will not collect from the borrower or any other person, directly or indirectly, any points, origination fees, charges, or other amounts except as permitted herein;
- (d) The lender has made and will make such investigation as is necessary to verify the facts stated by each borrower in the Mortgagor Certification of Eligibility (MCC-001) and the Closing Certification (MCC-007); and

(e) The agreement is a valid and binding agreement of the lender, enforceable according to its terms, the making and performance of which had been duly authorized by all necessary corporate and other action and will not constitute a violation of any law, any requirement imposed by any judicial, arbitral body or governmental instrumentality, or the charter or bylaws of the lender, or a default under any agreement or instrument by which it is bound or affected.

If any of the warranties contained above are in fact untrue in any respect with respect to any loan, then KHC may, at its option, terminate the participation of such lender in the Program and pursue such other remedies as are appropriate.

Section 2. Survival of Representations and Warranties It is understood and agreed that the lender's representations, warranties, and covenants shall survive the origination of loans by the lender under the Program. Upon discovery by the lender of the breach of any of such representations, warranties, and covenants which materially and adversely affects the value of any MCC, the lender shall give prompt written notice to KHC and take such other action as may be required hereunder.

ARTICLE III PROGRAM ADMINISTRATION AND PROCEDURES

In general, the Program procedures are designed to coincide with the standard loan processing and underwriting procedures that are in place at most mortgage-lending institutions. Borrowers apply for an MCC by completing the MCC reservation screen on-line in conjunction with an application for a loan from one of the participating lenders. There are of course procedural variations among the participating lenders, thus the procedures outlined here are meant to serve as guidelines with respect to the sequence of events. However, all elements of the processing sequence outlined in this Program Manual must at some point be completed, regardless of sequence.

Section 1. Loan Origination and MCC Application—Generally

- (a) The borrower applies for a loan from a participating lender.
- (b) The lender directs the borrower to complete the Mortgagor Certification of Eligibility (MCC-001). The lender verifies the information in such certification to the effect that:
 - (i) The residence will be used as the borrower's principal residence;
 - (ii) Either the borrower is a first-time home buyer during the preceding three-year period ending on the closing date or the eligible residence is located in a targeted area;

- (iii) The residence is an existing residence or a new residence and the acquisition cost does not exceed the purchase price limits; and
 - (iv) Gross annual household income is within the Program limits.
- (c) The lender directs the borrower to have the seller complete the Seller Certification (MCC-002).
- (d) The lender directs the borrower to supply his or her federal income tax returns for the previous three years and directs the borrower to sign the return (live signature) stating that “this is a true and exact copy of the return submitted to the IRS.” If tax returns are unavailable at the time of application, the borrower may request his/her tax returns from the IRS on IRS Form 4506 or may call the IRS at (800) 829-3676 to request the returns. Borrowers who have not filed tax returns may complete the Closing Certificate (MCC-007) and provide documented proof of residential status during those years for which no tax returns are available, e.g., notarized letter from landlord and/or cancelled rent checks, college transcripts, etc.
- (e) At loan closing, the lender collects from the borrower the MCC fee set forth in Article III, Section 7(d) below.
- (f) The processing time by KHC for an MCC application is approximately two business days. Applications are processed by KHC staff according to the date of receipt. Therefore, if a purchase agreement is contingent upon MCC approval, sufficient time should be allowed in the purchase agreement for processing the MCC application. All lenders will be notified by KHC (by e-mail or mail) of completed and incomplete applications. Incomplete applications will not be processed and will be returned to the lender.

Section 2. MCC Application and Reservation

- (a) The lender will make the MCC reservation through KHC’s Loan Connection Services section on the KHC Lender Web site. The lender will utilize its ID and password to request the reservation. Once the reservation is complete, the lender will print out the following documents from the Web:
- (i) Mortgagor Certification of Eligibility (MCC-001)
 - (ii) Seller Certification (MCC-002)
 - (iii) Reservation Letter (MCC-003)
 - (iv) Transmittal Form (MCC-004)

(b) The lender processes the loan application and submits compliance package to KHC prior to closing utilizing the Transmittal form (MCC-004) and attaching the required documents.

(c) KHC will review the MCC file within two business days and provide a response by e-mail to the participating lender. The loan will be approved, pended for additional information or rejected. The lender can access a copy of the response from KHC by the Web site and print it off.

(d) If the file has not been completed properly or is incomplete, KHC will request the additional information. Once the additional information is received, KHC will complete the review and issue the approval or rejection. Such approval by KHC will be in the form of an Approval Letter (MCC-005).

Section 3. Lender Underwriting and Verification

(a) The lender performs standard mortgage loan underwriting and verification procedures.

(b) Most underwriting programs will permit the lender to take into consideration the effect of the MCC when determining the total amount of household income available for the monthly housing payment in order to determine borrower qualification. The lender determines acceptability of the loan in accordance with applicable FNMA, FHLMC, FHA, VA, RD, and private mortgage insurance standards and underwriting guidelines.

(c) In conjunction with the lender's regular verification process, the lender is required to perform a reasonable investigation to determine that all Program requirements have been satisfied. The lender may verify Program requirements in any reasonable, efficient manner, as dictated by standard industry practices for processing mortgage loan applications and by this Program Manual.

(d) The lender verifies that the borrower and the loan transaction comply with the Program requirements or exemptions for gross annual household income, acquisition cost, first-time home buyer, location of eligible residence, and other Program requirements.

(e) Other than the application fee set forth in Article III, Section 1(e) above, the lender may charge only those points, origination fees, servicing fees, and other fees in amounts that are customarily charged with respect to loans not provided in connection with MCCs.

(f) See Article IV for specific Program requirements.

Section 4. Changes Prior to the closing date

(a) Changes in the applicant's gross annual household income or marital status after issuance of the MCC reservation.

(i) *Changes in Current gross annual household income.* The eligibility of the applicant for an MCC is based upon the applicant's current gross annual household income and the current gross annual household income of any other person (other than persons under 18 years of age) intending to permanently reside in the residence being financed, as verified by the lender within 120 days before the closing date. Changes in the applicant's gross annual household income occurring after the date of the MCC reservation and prior to the closing date, which were foreseen at the time of issuance of the MCC reservation, will require recertification of the applicant's gross annual household income for purposes of determining the applicant's eligibility.

(ii) *Changes in Marital Status.* If the applicant experiences a change in marital status after issuance of the MCC Reservation and prior to the closing date, the new spouse must satisfy the requirements contained in the Mortgagor Certification of Eligibility, including, if applicable, the first-time home buyer requirement. In addition, gross annual household income must be reverified for purposes of determining Program eligibility. Any gross annual household income attributable to a new spouse must be verified and added to the gross annual household income previously declared by the applicant. This new gross annual household income must be within KHC's Program limits.

(iii) Changes in gross annual household income or marital status occurring after the closing date do not affect Program eligibility. Such changes, however, may affect calculation of the recapture tax if the residence is disposed of within nine years after the closing date. See Article V for a discussion of the recapture tax.

(b) Changes in first-time home buyer status, acquisition cost, and amount of mortgage loan after issuance of the MCC reservation.

(i) If the applicant(s) acquire(s) a present ownership interest in a principal residence prior to the closing date, the MCC reservation shall be revoked (unless such MCC reservation is for a residence located in a Targeted Area).

(ii) If the total acquisition cost of the residence purchased in connection with the MCC increases so that it exceeds the acquisition cost limitations set forth herein, the MCC reservation shall be revoked.

- (iii) If the amount of the loan increases, thereby causing an increase in the MCC amount, the MCC reservation may be revoked at the discretion of the senior director of Homeownership.
- (c) Other changes in circumstances after issuance of the MCC reservation.
 - (i) KHC must be notified of any changes in loan amount that occur after issuance of the MCC reservation and prior to the closing date. An increase in loan amount may negate the MCC reservation if sufficient MCC authority is not available, and such reservation may be revoked at the discretion of KHC.
 - (ii) An MCC reservation is issued in reliance upon information and representations in the Mortgagor Certification of Eligibility that the requirements necessary for issuance of an MCC have been met. The lender must immediately notify KHC, in writing, of any change in circumstances upon which the MCC reservation was issued. If, as a result of such change in circumstances the Program requirements are no longer satisfied, the MCC reservation will be revoked.

Section 5. Extension and Cancellation of the MCC Reservation

- (a) The MCC reservation is valid for 120 calendar days, beginning on the date the Mortgagor Certification of Eligibility (MCC-001) is signed by the applicant. If the loan will not close prior to expiration of this 120-day period, an extension may be requested, providing the borrower's gross annual household income is reverified.
- (b) A 30-day extension may be granted at the option of KHC upon the applicant's request and remittance to KHC of an extension fee of \$100. Additional extensions may be granted if KHC determines that extenuating circumstances exist. However, the applicant must remit a fee of \$100 for **each** additional 30-day extension.
- (c) The lender must immediately notify KHC, in writing, of each MCC reservation to be cancelled. The lender must also return the original MCC reservation and state a reason for the cancellation.

Section 6. Determination of Program Eligibility Prior to the closing date

KHC will determine whether a particular borrower meets the Program requirements prior to the closing date if the lender submits the following documents to KHC, accompanied by an updated Transmittal Form (MCC-004), at least 10 days prior to the closing date:

- (a) Federal income tax returns for the three years prior to the closing date (or other permitted proof of status as a first-time home buyer, see Article IV, Section 2);

- (b) Verification of income; and
- (c) Copy of the purchase agreement.

KHC will review these documents and notify the lender that the borrower meets the eligibility requirements of the MCC Program and is eligible to receive the MCC following the closing date, provided that all other required documents, as listed in Section 7 below, are completed and submitted to KHC following the closing date. Such notification from KHC to the lender will be in the form of an Approval Letter (MCC-005).

Section 7. Loan Closing

- (a) The lender confirms that the MCC reservation is still active and has not expired or been revoked.
- (b) The lender approves the loan for the borrower pursuant to the lender's regular loan/underwriting procedures.
- (c) The lender informs the borrower of the opportunity to amend his or her IRS Form W-4, Employee's Withholding Allowance, to adjust federal income tax withholding in an amount comparable to the expected tax credit.
- (d) The lender collects from the borrower the MCC fee as follows:
 - (i) If the loan is a KHC GNMA secondary market program available through KHC, the fee is \$200 and is payable to the lender.
 - (ii) If the loan is other than a KHC GNMA secondary market program, the fee is \$500 and is payable to KHC.
- (e) The lender prepares and/or assembles the following list of documents and other information. The lender reviews the executed Program documents and delivers or mails the following executed MCC documents and other required information to KHC, accompanied by the Transmittal Form (MCC-004):
 - (i) Seller Certification (MCC-002);
 - (ii) Closing Certification (MCC-007);
 - (iii) Notice to Mortgagor of Maximum Recapture Tax (MCC-008) signed by the borrower;
 - (iv) Copy of the HUD-1 Settlement Statement (if applicable);
 - (v) Copy of the final Uniform Residential loan Application;
 - (vi) Copy of signed loan note; and
 - (vii) Copy of lender's approval.

(f) The following documents should also be submitted to KHC, unless previously submitted as provided under Section 6 above:

- (i) Federal income tax returns for the three years prior to the closing date (or other permitted proof of status as a first-time home buyer, see Article IV, Section 2);
- (ii) Verification of employment (VOE);
- (iii) Copy of the purchase agreement for the residence; and
- (iv) The MCC fee set forth in Section 7(d)(ii) above.

(g) KHC will review the above-listed MCC forms and documents and, if all Program requirements have been satisfied, issue the MCC in the form of MCC-009 to the borrower. A copy of the MCC will be provided for the lender.

(h) The cumulative total of all MCCs issued will be maintained in the records of KHC.

Section 8. MCC Revocation After the Closing Date The IRS has various remedies available for noncompliance with the Program, including disallowance of the tax credit. Pursuant to the Program, automatic revocation of an MCC occurs whenever:

- (a) The residence for which the MCC was issued ceases to be the borrower's principal residence;
- (b) Except as otherwise described herein, the loan is refinanced;
- (c) KHC or a participating lender discovers any material misstatement, whether negligent or fraudulent, made by the borrower in any loan or MCC document; or
- (d) The loan is paid in full.

Section 9. Recordkeeping and Federal Report Filing

(a) The lender is required to annually file (on or before January 31 of each year) a report with the IRS using IRS Form 8329 with respect to loans made in conjunction with the issuance of MCCs during the prior calendar year. A copy of Form 8329 is attached hereto as Appendix E.

(b) For a period of six years following the closing date, the lender must retain the following information with respect to each MCC:

- (i) Name, mailing address, and Social Security Number or Tax Identification Number (SSN/TIN) of the MCC holder;
- (ii) Name, mailing address, and TIN of KHC; and

- (iii) Closing date, the certified indebtedness amount (the loan amount), and the certificate credit rate for each loan and the respective MCC.
- (c) KHC shall make quarterly reports on IRS Form 8330, beginning with the quarter in which the election is made. The report shall include:
 - (i) Name, address, and TIN of KHC;
 - (ii) Date of MCC election for the Program and the nonissued bond amount of the Program;
 - (iii) The sum of the products of (A) the Certified Indebtedness Amount and (B) the Certificate Credit Rate for each respective MCC issued; and
 - (iv) Name, address, and SSN of each MCC holder whenever an MCC was revoked.
- (d) KHC also shall file any other reports as required by law.

Section 10. Audit Authority KHC retains the express authority to perform periodic random audits of the participating lenders' records with respect to MCCs and the corresponding loans.

ARTICLE IV BORROWER, ACQUISITION COST, ELIGIBLE RESIDENCE, AND LOAN REQUIREMENTS

Section 1. Overview For loans involving MCCs, the conventional underwriting standards can often be modified at the option of the lender to recognize the tax credit available to an MCC holder in determining housing expense and indebtedness ratios. The secondary mortgage market and the mortgage insurance industry have generally established underwriting requirements for MCC-related loans. These are available as policy statements from the mortgage-lending industry.

The Program requirements discussed in this Article IV are incorporated in the Program forms contained in the loan documents packet. With respect to each MCC requested, the lender will be required to certify that, to the best of its knowledge, no material misstatements appear in the MCC application or other Program documents. If the lender becomes aware of misstatements, whether negligently or willfully made, it must notify KHC immediately.

The Program imposes no restrictions on the type of financing arrangement the lender uses to make a loan. The Program allows the use of any conventional, FHA, VA, RD, or other mortgage instrument generally being used in the marketplace. The loan must

bear interest at a fixed rate over the life of the loan, and the loan must have a term of 30 years.

LENDERS SHOULD NOTE THAT MORTGAGE LOANS FINANCED UNDER TAX-EXEMPT BOND PROGRAMS (E.G., VETERANS' MORTGAGE BONDS OR MORTGAGE REVENUE BONDS) ARE NOT ELIGIBLE UNDER THIS PROGRAM.

Section 2. Borrower Eligibility Requirements Similar to any conventional mortgage loan program, the borrower must meet the credit and underwriting criteria established by the lender. To qualify for an MCC, a borrower must also meet the following requirements, which are based on the applicable federal and state regulations with respect to MCCs:

(a) ***The borrower must be a first-time home buyer.*** The borrower cannot have held an ownership interest in a principal residence at any time during the preceding three years ending on the closing date. This requirement does not apply to the acquisition of eligible residences in Targeted Areas. The foregoing requirement ensures that the borrower qualifies as a first-time home buyer under the federal regulations.

The lender must obtain from the borrower a certification certifying that the borrower meets this requirement. The certification must be verified by the lender's examination of the borrower's federal income tax returns for the preceding three years, or other evidence if income tax returns were not filed, to determine whether the borrower has claimed a deduction for mortgage interest or taxes on real property claimed as a principal residence.

(b) ***Exceptions to the first-time home buyer requirement.*** The first-time home buyer requirement does not apply if the eligible residence is located in a designated Targeted Area. (MCC applications relating to residences located within Targeted Areas must be clearly identified as such in the MCC documents).

(c) ***Demonstrating compliance with the first-time home buyer requirement.*** To demonstrate compliance with the first-time home buyer requirement, applicants must complete and sign the Mortgagor Certification of Eligibility (MCC-001), the Closing Certification (MCC-007), and provide copies of their signed federal income tax returns for the last three years (or acceptable alternate exhibits if income tax returns were not filed, see below). The income tax returns must be signed by the applicant (live signature) stating that "this is a true and exact copy of the return submitted to the IRS."

(i) If the applicant(s) can produce signed federal income tax Forms 1040A, 1040EZ, or 1040 for the preceding three years (with all schedules) which show that the applicant(s) claimed no deduction for mortgage interest or real estate taxes on real property claimed as a

principal residence, these forms shall be submitted to the lender prior to the issuance of an MCC.

(ii) If the applicant(s) filed the short Form 1040A or 1040EZ for the last three years but is (are) unable to produce the signed returns, the applicant(s) must submit a letter from the IRS stating that the applicant(s) filed Form 1040A or 1040EZ for the year or years in question. The letter may be requested from the IRS by calling the IRS at (800) 829-3676 or by filing Form 4506 and indicating on the form that a letter stating that the applicant(s) filed Form 1040A or 1040EZ for the years in question is being requested. The letter must be submitted to the lender prior to the issuance of an MCC.

(iii) In the event the applicant(s) was (were) not obligated to file federal income tax returns for any of the preceding three years, it will be necessary for the lender to obtain from the applicant(s) a completed and signed certification to such effect, along with documented proof of the applicant's residential status (e.g., notarized letter from landlord, rent receipts, college transcripts, entry visa into United States, etc.), as well as other Program certifications.

(iv) When the loan is closed during the period between January 1 and February 15 and the applicant(s) has (have) not yet filed his or her federal income tax return for the immediately preceding year, the lender may rely on an Certification of the applicant that the applicant is not entitled to claim deductions for real estate taxes or interest on indebtedness with respect to property constituting his or her principal residence for such preceding calendar year. When the loan is closed after February 15, the applicant(s) is (are) required to provide a copy of his or her federal income tax return for the preceding calendar year.

(d) ***The applicant must occupy the eligible residence as a principal residence.*** The applicant must occupy the eligible residence being purchased as a principal residence. Pursuant to the Program certifications, the borrower must state their intent to use the eligible residence as their principal residence within a reasonable time after the MCC is issued (but in no event later than 60 days after the MCC is issued or, if later, the first date the eligible residence is available for occupancy, as evidenced by the date of any applicable certificate of occupancy). The certification will further provide that the borrower notify the lender and KHC if the eligible residence ceases to be their principal residence. No portion of the residence may be used for purposes other than as the principal residence of the borrower.

- (e) **Gross annual household income must satisfy Program limitations.** To qualify for the Program, the gross annual household income of the borrower(s) and all other persons intending to permanently reside in the residence (other than persons under 18 years of age) may not exceed the MRB Program income limits determined from time to time by KHC.
- (f) **Revocation of MCC.** The MCC will be automatically revoked if the applicant fails to comply with the Program requirements. An MCC may be revoked under the circumstances described herein. (See Section 4 of Article III and Section 8 of Article III for causes for revocation.)
- (g) **Fraudulent acts.** Strict penalties may be imposed on any applicant making a material misstatement, misrepresentation or fraudulent act on documents submitted to obtain an MCC. Any person making a negligent or intentional material misstatement or misrepresentation in any certification made in connection with the application for or the issuance of an MCC shall be subject to all applicable state and federal fines and penalties.

Section 3. Acquisition Cost Requirement. In order to qualify for an MCC, the acquisition cost of an eligible residence may not exceed the applicable purchase price limits of the Program, which currently is \$243,000.

Section 4. Loan Requirements.

- (a) **New Mortgage loan.** Except as provided in Section 4(b) below, an MCC cannot be issued in conjunction with the acquisition or refinancing of an existing mortgage loan (except with respect to an approved transfer as discussed in Section 6 below). Pursuant to the Program certifications, the borrower will represent that the foregoing limitation is met with respect to the loan. Refinancing of construction loans, bridge loans or other “temporary” financing (financing with an original term of 24 months or less) does not violate this restriction.
- (b) **Loan Refinancing.** The acquisition and replacement limitations of Section 4(a) above do not apply to the refinancing of any loan as to which an MCC has previously been issued, and the MCC may, at the option of KHC, be reissued, provided all of the following are met:
- (i) The holder of the existing MCC applies for and obtains a new loan and a reissued MCC pursuant to all of the requirements of the Program, as such Program requirements exist at the time of the refinancing (including the payment of any fees);

- (ii) The new loan refinances the existing loan on the eligible residence with respect to which the existing loan was made;
- (iii) The certified mortgage indebtedness specified on the reissued MCC does not exceed the then outstanding balance of the certified mortgage indebtedness of the existing MCC;
- (iv) The Credit Certificate Rate on the reissued MCC does not exceed that on the existing MCC;
- (v) The expiration date of the reissued MCC does not exceed that of the existing MCC; and
- (vi) The MCC is reissued not later than the date which is one year after the closing date with respect to the new loan.

(c) ***Additional Limitations***

- (i) An MCC is applicable only to interest paid on the loan. No tax credit is available for interest paid by the MCC holder on any other loan, regardless of whether such loan is secured by a principal residence.
- (ii) An MCC cannot be issued or used, directly or indirectly, in connection with a prohibited mortgage loan. Pursuant to the Program certifications, the borrower will represent that no portion of the financing for the residence in connection with which the MCC is issued is provided from a prohibited mortgage loan.

(d) ***No Interest Paid to Related Persons.*** No interest on the loan or the certified indebtedness amount may be paid to a person who is a related person. Pursuant to the Program certifications, the borrower will represent that no related person has, or is expected to have, an interest as a creditor in the loan or the certified indebtedness amount.

Section 5. Eligible Residence Requirements.

- (a) Types of residences eligible for MCCs:
 - (i) Single family residences, including manufactured housing (A) with a minimum of 400 square feet of living space, (B) with a width of over 102 inches, and (C) of a kind customarily used at a fixed location; and
 - (ii) Condominiums.

(b) **Occupancy Requirements.** The residence must be occupied by the applicant as principal residence within 60 days following the date of the mortgage loan.

(c) **Commercial Usage.** No portion of the residence may be used for purposes other than as the principal residence of the borrower.

Section 6. Assumption of Loan and Transfer of Mortgage Credit Certificates.

(a) An MCC is transferable only as follows:

(i) KHC gives written approval of the transfer;

(ii) The transferee assumes liability for the remaining balance of the certified indebtedness amount in connection with the acquisition of the eligible residence from the transferor;

(iii) A \$150 transfer fee is remitted to KHC;

(iv) KHC issues a new MCC to the transferee; and

(v) The following requirements are met:

- The first-time home buyer requirement (or any permitted exception thereto);
- Gross annual household income requirement;
- The Principal residence requirement;
- The limitation regarding Prohibited Mortgage loans; and
- Acquisition Cost requirement.

(b) The requirements of Section 6(a)(v) above refer to Program requirements as they exist at the time of the MCC transfer, as if the MCC was then being issued for the first time. For example, the acquisition cost requirement is to be determined by reference to the KHC MCC Program purchase price limits in effect at the time of the loan assumption and not when the MCC was originally issued. Additionally, the transferee will be subject to the recapture tax if the eligible residence is sold within nine years of the date the new MCC is issued. (See Article V herein.)

Section 7. Targeted Area Set-Aside KHC will set aside 20 percent of the Program allocation of MCC authority for eligible residences located in a Targeted Area. This amount will be set aside for one year from the date KHC first accepts applications for MCCs under the Program.

ARTICLE V RECAPTURE TAX

Section 1. General The recapture tax provisions of the Code apply to all MCC holders. If the MCC holder sells or otherwise disposes of the eligible residence at any time within nine years after the closing date or the date of the MCC, whichever is later, all or part of the tax benefit may be subject to “recapture.” Recapture is accomplished by an increase in the MCC holder’s federal income tax liability for the year in which the eligible residence is sold or transferred, provided a gain is realized and the MCC holder’s income has increased above specified levels. The tax liability is based on income, family size, and net gain realized on the sale of the residence. Generally, all of the following events must occur to trigger the recapture tax:

- (a) The residence is sold within the first nine years of the closing date or the MCC issuance date (whichever is later); and
- (b) The MCC holder realizes a gain on the sale of the residence (as defined by the IRS); and
- (c) The MCC holder’s income has increased since the closing date and exceeds the limits established by the IRS.

Section 2. Payment The recapture tax is payable in the year the borrower sells or transfers his or her eligible residence.

Section 3. Exceptions and Amount of Tax.

- (a) No recapture tax is payable if:
 - (i) The residence is disposed of at a loss;
 - (ii) The residence is disposed of as a result of the MCC holder’s death;
 - (iii) The residence is disposed of later than nine years after the closing date or the date of the MCC, whichever is later;
 - (iv) The residence is transferred either to the MCC holder’s spouse or former spouse incident to divorce and the MCC holder has no gain or loss pursuant to Section 1041 of the Code;
 - (v) The residence is destroyed by a casualty, and the MCC holder repairs it or replaces it on its original site within two years after the end of the tax year when the destruction happened; or

(vi) The MCC holder's "Modified Adjusted Gross Income" is less than his or her "Adjusted Qualifying Income" in the taxable year in which the residence is sold.

(b) **Amount of Recapture Tax.** The actual recapture tax is the lesser of:

(i) 50 percent of the gain on the sale of the eligible residence, regardless of whether that gain must be included in the MCC holder's income for federal income tax purposes; or

(ii) The calculated recapture amount. See Form MCC-008.

Section 4. Recapture Notice Procedures.

(a) The Mortgagor Certification of Eligibility (MCC-001) must be signed by the applicant and accompany the initial MCC documents delivered by the lender to KHC before an Approval Letter (MCC-005) will be issued. See Article III, Section 2.

(b) The final Notice to Mortgagor of Maximum Recapture Tax (MCC-008) must be signed by the borrower and accompany the MCC closing documents delivered to KHC before an MCC will be issued. See Article III, Section 7.

APPENDIX A

KENTUCKY HOUSING CORPORATION MORTGAGE CREDIT CERTIFICATE PROGRAM

FORM AND DOCUMENT LISTING

The following is a list and summary description of the MCC Program documents and forms referred to in this Program Manual.

Program Document	Description
	<p><i>Program Manual.</i> This Program Manual, as revised by KHC from time to time.</p> <p><i>Lender Participation Agreement.</i> Agreement between KHC and lenders wishing to participate in the MCC Program. Attached to the Program Manual as Appendix D.</p>
MCC-001	<p><i>Mortgagor Certification of Eligibility.</i> The applicant makes the certifications required to determine eligibility for the Program, including the new mortgage, first-time home buyer (or exceptions thereto), Acquisition Cost and gross annual household income certifications.</p>
MCC-002	<p><i>Seller Certification.</i> The seller of the eligible residence makes certifications as to the purchase/sale price of the residence.</p>
MCC-003	<p><i>Reservation Letter.</i> The lender is notified that the MCC application has been accepted.</p>
MCC-004	<p><i>Transmittal Form.</i> Sent by the lender to KHC with application (or closing documents, as necessary) to verify that all appropriate forms and information have been included.</p>
MCC-005	<p><i>Approval Letter.</i> Issued by KHC upon receipt of all necessary documents. The MCC Approval form states KHC's intent to issue an MCC after the closing date, provided the information and certifications provided in the "closing" documents substantiate Program compliance. The MCC Reservation must be issued prior to the closing date.</p>
MCC-006	<p><i>Closing Checklist.</i></p>
MCC-007	<p><i>Closing Certification.</i> Used to evidence Program compliance. Certifications as to the validity of information in the Mortgagor</p>

Certification of Eligibility.

- MCC-008 **Notice to Mortgagor of Maximum Recapture Tax.** Required by law to be given to the applicant. The Notice advises the borrower that a recapture tax may apply in connection with the sale or other disposition of an eligible residence for which an MCC was issued and explains the calculation of the recapture tax, if any, which may apply on such sale or other disposition.
- MCC-009 **Mortgage Credit Certificate.** Issued by KHC after the closing date. This certificate must be validly issued and not be revoked for the borrower to claim the related tax credit.
- MCC-010 **Reissuance Certificate.** Issued by KHC in connection with the reissuance of an MCC.
- MCC-011 **Assumption Packet.** \$150.00

APPENDIX B

KENTUCKY HOUSING CORPORATION MORTGAGE CREDIT CERTIFICATE PROGRAM

TARGETED AREAS

Targeted areas are counties and census tracts which are determined to be areas of chronic economic distress or those in which a large portion of the households have incomes below a specific level.

Counties

Adair	Estill	Lee	Owen
Allen	Fleming	Leslie	Owsley
Bath	Floyd	Letcher	Pendleton
Bell	Fulton	Lewis	Perry
Bourbon	Gallatin	Lincoln	Pike
Boyle	Garrard	Logan	Powell
Bracken	Grant	Madison	Pulaski
Breathitt	Grayson	Magoffin	Robertson
Breckinridge	Green	Marion	Rockcastle
Butler	Harlan	Martin	Rowan
Carlisle	Harrison	Mason	Russell
Carroll	Hart	McCreary	Scott
Carter	Henry	McLean	Spencer
Casey	Hickman	Menifee	Todd
Clark	Hopkins	Metcalfe	Trimble
Clay	Jackson	Monroe	Washington
Clinton	Johnson	Montgomery	Wayne
Crittenden	Knott	Morgan	Webster
Cumberland	Knox	Nelson	Whitley
Edmonson	Larue	Nicholas	Wolfe
Elliott	Lawrence	Ohio	

Census Tracts

Boyd County:	301
Campbell County:	501
Daviess County:	2, 3
Fayette County:	4
Hardin County	15
Louisville and Jefferson County:	2, 14, 23, 24, 27, 30, 35, 43.02, 59, 62
McCracken County:	302, 303
Warren County:	102, 103

APPENDIX C

KENTUCKY HOUSING CORPORATION MORTGAGE CREDIT CERTIFICATE PROGRAM

CONTACT INFORMATION

Kentucky Housing Corporation
1231 Louisville Road
Frankfort, KY 40601

Attention: Brenda Walker
Senior Director Homeownership Programs

Telephone: (502) 564-7630, extension 783

Fax: (502) 564-7664

APPENDIX D

KENTUCKY HOUSING CORPORATION MORTGAGE CREDIT CERTIFICATE PROGRAM

LENDER PARTICIPATION AGREEMENT

THIS LENDER PARTICIPATION AGREEMENT (Agreement) is made and entered into as of the date set forth hereafter by and between **KENTUCKY HOUSING CORPORATION** (KHC), a *de jure* municipal corporation and political subdivision of the Commonwealth of Kentucky (Commonwealth), and the lending institution listed on the last page hereof with its principal place of business at the address listed hereafter (lender).

WITNESSETH:

WHEREAS, Section 25 of the Internal Revenue Code of 1986, as amended (the Code), permits KHC to elect to exchange all or any part of its authority to issue qualified tax-exempt, private activity bonds for authority to issue Mortgage Credit Certificates (MCCs) as a means of assisting qualified individuals with the acquisition of eligible new and existing single-family housing; and

WHEREAS, KHC elected not to issue \$50,000,000 of qualified private activity bonds during the calendar year 2009 and subsequently established the 2011 Mortgage Credit Certificate Program (Program); and

WHEREAS, lender wishes to participate in the Program in connection with mortgage loans which lender may make available to qualified borrowers for the acquisition of eligible new or existing single-family residences located within the Commonwealth;

NOW, THEREFORE, in consideration of the premises set forth herein, the parties agree as follows:

Section 1. Lender agrees to accept and review applications for MCCs pursuant to the 2011 Mortgage Credit Certification Program Manual (Program Manual). If such an application indicates that an applicant is eligible for an MCC, and if lender has determined to make to the applicant a mortgage loan from its own funds (meeting the requirements set forth in the Program Manual), lender shall forward the MCC application to KHC in the manner as set forth in the Program Manual. To the extent KHC has MCC credit authority available and the applicant is eligible for an MCC, KHC will assign the applicant an MCC reservation number.

Section 2. Lender agrees to make information regarding the Program available to potential applicants.

Section 3. Lender will obtain from the applicant all documents and information required in connection with the application for and receipt of an MCC as set forth in the Program Manual.

Section 4. Lender will perform all investigation and verification that it would normally perform for underwriting a mortgage loan not provided in connection with an MCC.

Section 5. Lender will conduct such reasonable investigation as is necessary to certify that the applicant has satisfied all requirements of the Program, including those imposed by temporary and permanent regulations issued pursuant to the Code and KHC eligibility requirements.

Section 6. Lender warrants that it is familiar with the Program as well as the laws of the Commonwealth applicable to the Program and the Program Manual. Lender hereby agrees to comply with all provisions of the Code, Commonwealth law, and applicable regulations and guidelines, including, but not limited to, the Program Manual, as such may apply to the Program.

Section 7. Lender hereby agrees to comply with all data and record retention and all reporting requirements applicable to the Program which are required by the Code, all temporary and permanent regulations, Commonwealth law, and the Program Manual.

Section 8. Lender hereby agrees that KHC and its agents have the authority to examine and inspect all books and records in lender's possession relating to any MCC and the Program. Lender hereby agrees to grant KHC and its agents access to such books and records during normal business hours upon KHC's request.

Section 9. Lender understands that, under the Program, KHC has \$12,500,000 of MCC credit authority and that, other than as set forth in the Program Manual, it shall be allocated by KHC on a first-come, first-served basis among prospective applicants, provided that 20 percent of such allocation will be set aside during the first year of the Program for residences located in Targeted Areas, as more fully discussed in Article IV, Section 7 of the Program Manual.

Section 10. This Agreement shall remain in full force and effect until terminated as provided herein. Lender or KHC may terminate this Agreement, without cause, upon 60 days' written notice to the other. Further, KHC may immediately terminate this Agreement and prohibit lender from participating in the Program upon lender's failure to comply with the terms and conditions of this Agreement or the Program Manual upon written notice by KHC.

Section 11. Lender hereby agrees that repayment of any mortgage loan made in conjunction with the Program is the responsibility of the applicant and that payment of such mortgage loan does not constitute an indebtedness of KHC or a charge against its general credit or other assets or the general credit or other assets of the Commonwealth.

Section 12. Lender has submitted the \$750 non-refundable MCC Program fee to KHC.

Section 13. Other than the MCC fee described in Article III, Section 7(d)(i) of the Program Manual, lender may charge only those points, origination fees, servicing fees, and other fees in amounts that are customarily charged with respect to loans not provided in connection with MCCs.

Section 14. Lender has reviewed and is familiar with the Program Manual and affirms that the representations and warranties of lender contained therein are true as of the date hereof and will be true so long as lender is a participating lender under the Program.

THIS AGREEMENT is entered into as of the day and year written below.

Dated: _____ [NAME OF INSTITUTION],
Lender

By .
Title _____

Dated: _____ KENTUCKY HOUSING CORPORATION

By .
Chief Executive Officer

Return to: Kentucky Housing Corporation
1231 Louisville Road
Frankfort, KY
40601

EXHIBIT A TO LENDER PARTICIPATION AGREEMENT

**KENTUCKY HOUSING CORPORATION
MORTGAGE CREDIT CERTIFICATE PROGRAM**

NOTICE OF MCC LENDER IDENTIFICATION NUMBER

Pursuant to the 2011 Mortgage Credit Certificate Program Manual (Program Manual) and the lender Participation Agreement (Agreement), dated _____, 20____ between Kentucky Housing Corporation (KHC) and you, KHC hereby notifies you that you have been accepted and approved for participation in the 2011 Mortgage Credit Certificate Program as a Participating lender that may request the issuance of Mortgage Credit Certificates (MCCs) in conjunction with qualifying Mortgage loans, pursuant to and under the conditions set forth in the Program Manual and the Agreement.

The aggregate principal amount of MCCs which may be issued by KHC under this Notice of Acceptance shall be determined as you request, and KHC confirms reservations of MCC authority pursuant to the program documents (particularly the Agreement, the Program Manual, and this Notice) relating to the 2011 Mortgage Credit Certificate Program.

Your MCC lender Identification Number is _____.

KENTUCKY HOUSING CORPORATION

Brenda Walker,
Senior Director Homeownership

_____, 20____

APPENDIX E

Form **8329**
 (Rev. July 1999)
 Department of the Treasury
 Internal Revenue Service

**Lender's Information Return for
 Mortgage Credit Certificates (MCCs)**

OMB No. 1545-0922

For calendar year ending

Part I Reporting Authority

Lender's name _____

Employer identification number
 :
 :

Lender's address (number, street, or P.O. box no., if mail is not delivered to street address) _____

Room/suite _____

City, town, or post office, state, and ZIP code _____

Part II Issuing Authority

Issuer's name _____

Employer identification number
 :
 :

Issuer's address (number, street, or P.O. box no., if mail is not delivered to street address) _____

Room/suite _____ Election date _____

City, town, or post office, state, and ZIP code _____

Nonissued bond amount _____

Part III Recipients of Mortgage Credit Certificates (If more than five recipients, see instructions.)

(a) Name(s)	(b) Address Do not use a P.O. box number.	(c) Social Security Number(s)
1		
2		
3		
4		
5		

Part IV Computation of the Total Amount of Mortgage Credit Certificates (Note: Match the information entered on each line with information entered on each corresponding line in Part III.)

(d) Date of Issue of MCC	(e) Certified Indebtedness Amount of Each MCC Issued	(f) Certificate Credit Rate	(g) Amount of MCC Issued (column (e) × column (f))
1			
2			
3			
4			
5			
6 Total amount of MCCs issued. (See instructions.)			

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than representative of lender) is based on all information of which preparer has any knowledge.

Signature of authorized representative of lender _____ Date _____ Title _____

Preparer's signature _____ Date _____ Check if self-employed Preparer's SSN or PTIN _____

Paid Preparer's Use Only

Firm's name (or yours if self-employed) and address _____ EIN _____ ZIP code _____

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Any person who makes a loan that is a "certified indebtedness amount" on any mortgage credit certificate (MCC) must maintain books and records of such activity and file Form 8329. (See Temporary Regulations section 1.25-8T(a).)

A separate Form 8329 must be filed for each issue of MCCs for which the lender made mortgage loans during the calendar year. Each issue of MCCs corresponds to the MCC program relating to the nonissued bond amount that was the subject of the election made on the election date. Both the nonissued bond amount and the election date are to be provided in Part II of this Form 8329.

Purpose of Form

Form 8329 is used by lenders of certified indebtedness amounts to provide the IRS with information regarding the issuance of MCCs under section 25.

The MCC must be issued under a program that meets the residence requirements of section 143(c). Under these requirements, the residence must: (1) be a single-family residence that can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and (2) be located in the jurisdiction of the authority issuing the certificate. See section 25(c)(2) for additional requirements.

Who Must File

Any person who makes a loan that is a certified indebtedness amount on any MCC must file Form 8329.

When To File

File Form 8329 by January 31 following the close of the calendar year in which the lender made certified indebtedness loans.

The IRS may grant an extension of time to file Form 8329 if there is reasonable cause for not filing on time.

Where To File

File Form 8329 with the Internal Revenue Service Center, Ogden, UT 84201.

Penalty

Any person required to file Form 8329 may be subject to a \$200 penalty for each form that is not filed by the due date.

Definitions

A "mortgage credit certificate" is a certificate issued under a "qualified mortgage credit certificate program" by the state or political subdivision having the authority to issue qualified mortgage bonds to provide financing for the acquisition, qualified rehabilitation, or qualified home improvement of a taxpayer's principal residence. For more information, see section 25(c)(1).

A "qualified mortgage credit certificate program" is a program established for any calendar year by a state or political subdivision that is authorized to issue qualified mortgage bonds under section 143 (and for which there has been an appropriate allocation of state volume cap for that calendar year under section 146) but elected instead to issue mortgage credit certificates. (See section 25(c)(2) for additional requirements.) The aggregate amount of all mortgage credit certificates issued under any single MCC program may not exceed 25% of the nonissued bond amount for which the election was made. See section 25(d)(2).

The "certified indebtedness amount" is the amount of indebtedness specified in the MCC and incurred by a taxpayer:

- a. To acquire his or her principal residence,
b. To make qualified home improvements on that residence, or
c. To make a qualified rehabilitation of that residence.

The "certificate credit rate" is the rate specified by the issuer on the MCC. However, the rate cannot be less than 10% nor more than 50%. For other limitations, see Temporary Regulations section 1.25-2T(b).

Specific Instructions

Part I—Reporting Authority

Provide information about the mortgage lender.

Part II—Issuing Authority

Provide information about the mortgage credit certificate issuer.

Election date. Enter the date the issuing authority elected to issue MCCs in lieu of qualified mortgage bonds for the MCC program that included the amounts listed in Part IV, column (e).

Nonissued bond amount. Enter the total amount of qualified mortgage bonds (as defined in section 143(a)(1) and the related regulations) that the issuer has authority to issue but elected instead on the election date to convert into authority to issue MCCs.

Part III—Recipients of Mortgage Credit Certificates

Column (a). Enter the name(s) of the MCC holder(s) to whom the lender made certified indebtedness loan(s) during the calendar year. If an MCC lists more than one holder, enter all of the holders on one line.

Column (b). Enter the number and street, city, state, and ZIP code of the property for which the MCC was issued. Do not use a P.O. box number.

Column (c). Enter the social security number(s) of the holder(s) listed on the MCC.

Part IV—Computation of the Total Amount of Mortgage Credit Certificates

Column (d). Enter the date the issuing authority issued the certificate for the amount included in column (e). Do not give the date the loan was made nor the date when any preliminary approval to issue an MCC was given by the issuer.

If the loan is for a reissued MCC as permitted by the regulations, the date of the reissued certificate should be given, preceded by the word "Reissued." For example, "Reissued, July 26, 1999."

Column (f). Enter the certificate credit rate for each MCC.

Column (g). For each certificate amount listed in column (e), multiply by the certificate credit rate associated with that certificate shown in column (f).

Line 6. This is the aggregate amount of MCCs issued (Part IV, column (g)) in connection with the lender's loans relating to the issuer's MCC program for the calendar year. The total should reflect all of the MCCs described on the lender's Form 8329, including any attachments, for the MCC program for the calendar year.

Additional Entries

If the lender must report on more than 5 mortgage credit certificates, it should report these additional certificates on an attachment formatted like Form 8329.

Instead of formatting its own attachment, the lender may use one Form 8329 as a transmittal document and use additional Forms 8329 as attachments. In such a case, draw an "X" across the 5 lines of Parts III and IV of the Form 8329 used as a transmitting document. Complete the remainder of this Form 8329, making certain that all mortgage credit certificate amounts reported in all the attachments in Part IV, column (g) are totaled for line 6 of the transmittal document. Sign only the transmittal Form 8329 and indicate in the top margin the number of Forms 8329 attached to this Form 8329.

On the attached Forms 8329, show the lender's name and employer identification number in Part I and enter mortgage credit certificate information on the 5 lines of Parts III and IV.

Signature

Form 8329 must be signed by an authorized representative of the lender.

Leave the paid preparer's space blank if the return was prepared by a regular employee of the lender. Otherwise, anyone who is paid to prepare the return must sign it in the Paid Preparer's Use Only area.

The paid preparer must complete the required preparer information and:

- Sign the return, by hand, in the space provided for the preparer's signature (signature stamps and labels are not acceptable).
• Give a copy of the return to the lender.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 3 hr., 35 min.

Learning about the law or the form 1 hr.

Preparing and sending the form to the IRS 1 hr., 6 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. DO NOT send the form to this address. Instead, see Where To File on this page.

