



# Compliance Solutions

an affiliate of Zeffert & Associates

[www.zeffert.com](http://www.zeffert.com)

FALL 2004



## “Oh What a Difference a Day Makes!”

A new revenue ruling reminds us that the last day of the month may be a better day than the first to move in a household during a LIHTC rent-up.

By Scott Michael Dunn

If you were allowed to charge every tenant who moved into a unit at any time during a month a full month's rent, would it affect how you would do business? Chances are that it would. For instance, move-ins on the first of the month would likely be less common, wouldn't you agree? If a family were willing to move in on even the last day of the previous month, the **property would see a whole month's revenue for that unit**. If property cash flow were the only issue here, it would be entirely possible that the industry standard would be last day of the month move-ins. This will never be the case, because such a standard would be very disadvantageous to the tenants, and would thus ultimately be to no one's benefit. A new IRS Revenue Ruling, however, reminds us of a provision in the tax code that has a similar effect, not on rents, but on the tax credits that investors can collect for a unit during the period that each unit in a property is being rented for the first time (rent-up).



In Revenue Ruling 2004-82, the IRS answered several questions that have been asked by the industry. Relating to the topic at hand, question 4 of the ruling points out that **credits can be claimed for any household that is in the unit on the last day of a month**. For example, if John and his LIHTC-eligible household move into a never-been-qualified tax credit unit on November 30<sup>th</sup>, the credits are figured on that unit for all of November. By way of contrast, if the household moves in on December 1<sup>st</sup>, credits will be claimed for December, but the opportunity to increase the first year credit by one month by counting November has been lost for that

unit. As credits claimed are often as much or more than the rents charged, we can see **“what a difference a day makes!”** It is not accurate to say that the credits for that month are lost, but they will not be claimed until the 11<sup>th</sup> year of the compliance period. For several reasons, though, it is much better to claim as many of the credits in the 1<sup>st</sup> year as possible. The new Ruling thus indirectly remind us that making arrangements, or even incentives to get households to sign leases and accept keys early, even a day early, may benefit the property. By the way, giving the household a little extra time to move in is often win-win for all involved.

One final note: the Ruling also reiterates that, in order to claim credits for a month; the building must have been placed in service for at least a month. In our earlier example, with a November 30<sup>th</sup> move-in, credits can be claimed for the month of November, as long as the building was placed in service on November 1<sup>st</sup> or earlier.

In showing us the difference a day can make, Revenue Ruling 2004-82 also demonstrates that entering a rent-up with full knowledge of even small provisions can mean real advantages. This goes a long way in getting an affordable housing property started off “on the right foot.”