

From: Spear, Brian <Brian.Spear@cedcapital.com>
Sent: Monday, April 9, 2018 5:44:28 PM
To: Marisa Button
Cc: Trey Price
Subject: Memo for the 2018 Rule Development Process

Marisa, please find the attached memo from The Tidwell Group, an accounting firm specializing in affordable housing.

This memo provides support for keeping accrued interest in the calculation of outstanding indebtedness in the qualified contract price calculation.

Thank you

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Memorandum

To: Brian Spear

From: Garrick Gibson

Date: March 30, 2018

Re: Qualified Contract – Outstanding Indebtedness

Issue: Does accrued interest on secured outstanding debt factor into qualified contract price?

The Final Regulations, § 1.42-18, published in 2012 define outstanding indebtedness to include only those amounts secured by, or **with respect to**, the building that (1) do not exceed qualifying building costs, (2) are indebtedness under general principles of Federal income tax law, and (3) upon the sale of the building, are actually paid to the lender or are assumed by the buyer as part of the sale.

Based on the aforementioned definition and compliance with qualified building cost limitation, accrued interest on secured debt meet requirement (2) and (3).

For example, let's say a property owner has a \$2M SAIL loan with \$500k of accrued interest. Let's also say that during the 1-year marketing period, FHFC presents a Buyer who provides a bona fide contract with the requisite deposit. If this were to close, the SAIL lender would expect a repayment of \$2.5M (principal + interest).

If the QC price did not include accrued interest, then there wouldn't be symmetry in the process, and the property owner would sustain a \$500,000 loss. However, there is symmetry and consistency with the Final Regulations (see #3 above) if the outstanding indebtedness includes the amounts paid to the lender upon sale of the building.

Conclusion: The accrued interest should be included in the qualified contract price to the extent that when combined with all other secured outstanding debt does not exceed the qualified building cost limitation as defined in the Regulations.

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