

Examples of Cases and Legislation Addressing the Taxation of Subsidized Rental Housing

These examples are illustrative only, and are not intended to describe the current state of the law in any particular jurisdiction. They list only a small sample of the judicial decisions on this topic, and do not address provisions dealing with valuation of property in general. As can be seen, the impact of a number of judicial decisions has been limited by later legislation.

State	Citation	Date	Notes
Alaska	Alaska Stat. § 29.45.110(d)	2001	In the case of Section 42 property, “the assessor shall base assessment of the value of the property on the actual income derived from the property and may not adjust it based on the amount of any federal income tax credit given for the property.” For property qualifying for Section 42 after January 1, 2001, permits local option by parcel for assessment under standard market value approach or on the basis of actual income without adjustment for any federal income tax credit; locality may not change the manner of assessing such property while “debt relating to the property incurred in conjunction with the property’s qualifying for the low-income housing tax credit remains outstanding.”
Arizona	Cottonwood Affordable Housing v. Yavapai Co., 205 Az. 427, 72 P.3d 357 (Arizona Tax Court)	2003	“[R]estrictions imposed under the LIHTC program have a direct and immediate affect upon marketability and must be taken into account.” Section 42 tax credits constitute intangible property and should not be added to the property value or considered part of property’s income stream.
Arkansas	Attorney General Opinion 2004-263	2004	Appropriate treatment of LIHTC property “not clearly settled in Arkansas law.”
California	Cal Rev. & Tax Code § 402.95	2005	LIHTC property: “In valuing property under the income method of appraisal, the assessor shall exclude from income the benefit from federal and state low-income housing tax credits....”
California	State Board of Equalization Letter to Assessors No. 2005/044	2005	LIHTC property: “[A]ny economic return derived from the tax credits must be excluded from a project’s gross return.... [T]he income to be capitalized is the net return, which, with a tax credit project, is the restricted maximum gross rent plus any additional property-derived income (for example, net income from vending machines) less vacancy and collection loss less allowed operating expenses (including prescribed reserves for project repair and maintenance.”
California	Maples v. Kern County Assessment Appeals Board, 96 Cal.App. 4 th 1007, 117 Cal. Rptr. 2d 663 (California Court of Appeal)	2002	Under Section 515 of the National Housing Act of 1949 (42 U.S.C. § 1485) program for low-income housing in rural areas, appropriate for capitalization rate to reflect federally subsidized financing that produces an effective 1 percent mortgage rate.
Connecticut	Conn. Gen. Stat. § 8-216a	1973	Valuation of specified low or moderate-income housing to be based on capitalized value of the net restricted rental income.
Connecticut	Executive Square Ltd. Partnership v. Board of Tax Review, 11 Conn. App. 566,	1987	Section 8 rental subsidies may be considered as income for assessment purposes. Trial court found that “According to the evidence, Section 8 housing has its own market and therefore the rental established for the subject property was market rent.”

	528 A.2d 409 (Appellate Court of Connecticut)		
Florida	Fla. Stat. § 193.017	2005	For property used for affordable housing which has received a low-income housing tax credit from the Florida Housing Finance Corporation, tax credits shall not be considered income and rent restrictions must be recognized in the assessment; a recorded low-income housing agreements shall be considered a land-use regulation and a limitation on the highest and best use.
Georgia	Official Code of Georgia Annotated § 48-5-2(3)(B.1)	2001	“The tax assessor shall not consider any income tax credits with respect to real property which are claimed and granted pursuant to either Section 42 of the Internal Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair market value of real property.”
Georgia	Pine Pointe Housing, L.P. v. Lowndes County Board of Tax Assessors, 254 Ga. App. 197, 561 S.E.2d 860 (Court of Appeals of Georgia)	2002	“Because Section 42 tax credits are generated by a designated property, a third party would pay for the value as part of that property’s sale price in a bona fide, arm’s length transaction. Furthermore, the tax credits go hand in hand with restrictive covenants that require the property to charge below-market rent. By statute, these restrictions are required to be considered by the assessor. If viewed in isolation, the rental restrictions would artificially depress the value of the property for tax valuation purposes.” Section 42 tax credits are not the type of intangible asset that must be disregarded in the assessment process.
Idaho	Idaho Code §63-205A	2009	Section 42 property to be assessed with consideration to all three approaches to value; special methods prescribed for taking rent restrictions and tax credits into account. Net operating income does not include the housing tax credit, but provision is made for determination of the market derived capitalization rates.
Idaho	Brandon Bay Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (Supreme Court of Idaho)	2006	Section 42 tax credits: “Because the tax credits are rights and privileges that directly relate to the real estate, they are properly considered in assessing the value of low-income housing.”
Idaho	Greenfield Village Apts. v. Ada County, 130 Idaho 207, 938 P.2d 1245 (Supreme Court of Idaho)	1997	Property valuation must consider “the actual and functional use of the property as low-income, rent-restricted property.”
Illinois	35 Illinois Compiled Statutes 200/1-130	1999	Taxable property does not include “low-income housing tax credits authorized by Section 42 of the Internal Revenue Code, 26 U.S.C. 42.”
Illinois	35 Illinois Compiled Statutes 200/10-235; 200/10-245	2000	“It is the policy of this State that low-income housing projects developed under Section 515 of the federal Housing Act [12 U.S.C. § 515] or that qualify for the low-income housing tax credit under Section 42 of the Internal Revenue Code [26 U.S.C. § 42] shall be valued at 33 and one-third percent of the fair market value ..” “[E]xcept in counties with a population of more than 200,000 that classify property for the purposes of taxation, to determine 33 and one-third percent of the fair cash value ...local assessment officers must consider the actual or probable net operating income attributable to the property, using a vacancy rate of not more than 5%, capitalized at normal market rates. The interest rate to be used in developing the normal market value capitalization rate shall be one that reflects the prevailing cost of cash for other types

			of commercial real estate in the geographic market in which the low-income housing project is located.”
Illinois	35 Illinois Compiled Statutes 200/10-260	1999	“In determining the fair cash value of property receiving benefits from the Low-Income Housing Tax Credit authorized by Section 42 of the Internal Revenue Code, 26 U.S.C. 42, emphasis shall be given to the income approach, except in those circumstances where another method is clearly more appropriate.”
Illinois	Kankakee County Board of Review v. Property Tax Appeal Board, 131 Ill. 2d 1, 544 N.E.2d 762, 136 Ill. Dec. 76 (Illinois Supreme Court)	1989	Appropriate to consider both regulatory burdens and above-market rent provided by subsidies for senior housing appropriately considered in valuation. “A willing buyer would most certainly consider the guaranteed income rate set by the Federal government when determining the fair cash value of the property. To ignore actual income would be to ignore the effect of the subsidy on a prospective investor's judgment regarding the fair market value of the property.”
Illinois	Rainbow Apartments v. Illinois Property Tax Appeals Board, 762 N.E.2d 534, 260 Ill. Dec. 875 (Illinois Appellate Court)	2001	“Section 42 tax credits are not intangible property because they do not constitute a right to a payment of money, have no independent value, and are not freely transferable upon receipt.” Tax credits are equivalent to government subsidy payments and are appropriately considered in determining fair cash value. 35 Illinois Compiled Statutes 200/1-130 not retroactive; assessments here were made prior to its effective date.
Illinois	Lake County Board of Review v. Property Tax Appeal Board, 172 Ill. App.3d 851; 527 N.E.2d 84, 122 Ill. Dec. 712 (Illinois Appellate Court)	1988	Government rental subsidies appropriately considered in valuation. “The record reflects that the HUD rent subsidy was for a 20-year term and was freely transferable should the property be sold.... [T]he contract rent was reflective of the complex's capacity to earn income.”
Indiana	Burns Ind. Code Ann. § 6-1.1-4-40	2004	“The value of federal income tax credits awarded under Section 42 of the Internal Revenue Code may not be considered in determining the assessed value of low income housing tax credit property.”
Indiana	Burns Ind. Code Ann. § 6-1.1-4-41	2006	For property eligible for Section 42 credits, “For assessment dates after February 28, 2006, the true tax value of low income rental property is the greater of the true tax value: (1) determined using the income capitalization approach; or (2) that results in a gross annual tax liability equal to five percent (5%) of the total gross rent received from the rental of all units in the property for the most recent taxpayer fiscal year that ends before the assessment date.”
Indiana	Hometowne Associates, L.P. v. Maley, 839 N.E.2d 269 (Indiana Tax Court)	2005	“This Court has previously aligned itself with those jurisdictions that have held that federal tax incentives must be taken into consideration when evaluating whether rental restrictions do indeed cause low-income housing complexes to experience obsolescence. See Pedcor Invs.-1990-XIII, L.P. v. State Bd. of Tax Comm’rs, 715 N.E.2d 432, 437 and n. 10 (Ind. Tax Ct. 1999).” Rejects characterization of federal income tax incentives as intangibles to be excluded in determining market value. Probative evidence of obsolescence due to government restrictions must be considered.
Indiana	Pedcor Investments-1990-XII, L.P. v. State Board of Tax Commissioners, 715 N.E.2d. 432 (Indiana Tax Court)	1999	Reductions in value due to deed restrictions and limited rent may be balanced by tax credits and other financial benefits.

Iowa	Iowa Code § 441.21 (2)	2001	“[I]n assessing property that is rented or leased to low-income individuals and families as authorized by section 42 of the Internal Revenue Code, as amended, and which section limits the amount that the individual or family pays for the rental or lease of units in the property, the assessor shall use the productive and earning capacity from the actual rents received as a method of appraisal and shall take into account the extent to which that use and limitation reduces the market value of the property. The assessor shall not consider any tax credit equity or other subsidized financing as income provided to the property in determining the assessed value.”
Kansas	In re Equalization Appeal of Ottawa Housing Associates, L.P., 27 Kan. App.2d 1008, 10 P.3d 777 (Kansas Court of Appeals)	2000	Property tax valuation should take into account the effects of the low-income housing contract because “[b]uyers and sellers of real estate consider these tools in determining the market value of real estate.”
Louisiana	New Walnut Square Ltd. Partnership v. Louisiana Tax Commission, 626 So. 2d 430 ((Louisiana Court of Appeal)	1993	Proper to consider subsidized 236 mortgage as well as restricted rents under the income approach: “Certainly, the fact of lower mortgage payments decreases expenses and thereby increases the owner’s potential income from the investment. In addition, because the low interest mortgage is transferable, it may increase the resale value of the property.”
Maine	Glenridge Development v. City of Augusta, 662 A.2d 928 (Supreme Judicial Court of Maine)	1995	Appropriate to take mortgage interest into account in valuation; no error in this case in failing to separately consider rent restrictions because valuation was based on the cost approach.
Maryland	Md. Tax-Property Code Ann. § 8-105(a)(3)	2005	(3) In determining the value of commercial real property developed under § 42 of the Internal Revenue Code, the supervisor: (i) shall consider the impact of applicable rent restrictions, affordability requirements, or any other related restrictions required by § 42 of the Internal Revenue Code and any other federal, State, or local programs; (ii) may not consider income tax credits under § 42 of the Internal Revenue Code as income attributable to the real property; and (iii) may consider the replacement cost approach only if the value produced by the replacement cost approach is less than the value produced by the income approach for the property and it is reflective of the value of the real property.
Maryland	Supervisor of Assessments of Baltimore City v. Har Sinai West Corp., 95 Md. App. 631, 622 A.2d 786 (Maryland Court of Special Appeals)	1993	HUD-financed low-income housing for elderly and handicapped held not to be exempt. Valuation that accounts for HUD rent restrictions may also take benefits into account. “Value is not only what a willing buyer will pay for a piece of property but also includes the mortgages or other indebtedness that a buyer is willing to assume for the seller in exchange for the property.”
Massachusetts	Community Development Co. of Gardner v. Board of Assessors, 377 Mass. 351; 385	1979	Section 236 property: “In our view the board erred in not taking into account the restrictions placed by Federal regulations on the rent the company could actually receive from the housing project.”

	N.E.2d 1376 (Supreme Judicial Court of Massachusetts)		
Michigan	Meadowlanes Limited Dividend Housing Association, v. City of Holland, 437 Mich. 473, 473 N.W.2d 636 (Supreme Court of Michigan)	1991	Section 236 property: appropriate to take mortgage subsidy into account in valuation for tax purposes. “[A]lthough the mortgage-interest subsidy is an intangible, and not taxable in and of itself, it is a value-influencing factor.... It is merely an intangible value influencer to be considered in the valuation and assessment process in the same manner as tax benefits, location, zoning, and other intangible value influences.” “[W]e acknowledge that there is no single correct approach for determining the true cash value of federally subsidized real property. Therefore, the appraiser should use variants of all three traditional approaches, valuing the property both as private apartments and as a federally subsidized housing complex. Also, any other approach demonstrated to be accurate and reasonably related to the fair market value of the subject property is acceptable.”
Michigan	Antisdale v. Galesburg, 420 Mich. 265, 362 N.W.2d 632 (Supreme Court of Michigan)	1984	Farmer’s Home Administration subsidized 1 percent mortgage constitutes a factor to be considered in valuation. “The foremost value of these properties is found in the tax benefits they generate to the owner.”
Michigan	Huron Ridge, L.P. v. Township of Ypsilanti, 275 Mich. App. 23, 737 N.W.2d 187 (Court of Appeals of Michigan)	2007	“In Michigan, intangibles are not taxable in and of themselves, but they may be taken into account for purposes of assessing the value of tangible property under the General Property Tax Act and other statutes.” “The purpose of the IRC § 42 program is to stimulate demand for ownership interests in low-income housing projects by attaching a valuable credit to that interest. Just as this Court described in <i>Antisdale</i> , there would be no market for private investment in low-income housing development were it not for these federal tax incentives....For that reason, we also agree with those states that have found that the appraised value of the property for property tax purposes would be artificially depressed if the value of the tax credits is not included.”
Minnesota	Minn. Stat. § 273.13 Subd. 25. Class 4(e)		Qualifying low-income rental housing certified to the assessor by the Housing Finance Agency has a class rate of 0.75 percent, with market value based on the normal approach to value using normal unrestricted rents.
Mississippi	Miss. Code Ann. § 27-35-50 (4)(d)	2005	State Tax Commission to prescribe procedures for appraisal of affordable rental housing according to actual net operating income attributable to the property, and to prescribe capitalization rate.
Mississippi	Attorney General Opinion 2006-00578	2006	“...Section 27-35-50 is silent with regard to the inclusion or exclusion of federal tax credits in determining value.... [L]anguage stating that tax credits and federal subsidies shall not be considered was removed by the Legislature from Senate Bill Number 3100 prior to passage. Removal of this language indicates that the Legislature intended for tax assessors to be permitted to consider tax credits and federal subsidies in making determinations of true value. If a tax assessor determines, consistent with fact, that federal tax credits and subsidies must be considered in order to determine true value, then the tax assessor must consider the federal tax credit and subsidies.”
Mississippi	Rebelwood, Ltd. v. Hinds County, 544 So.2d 1356 (Supreme Court of	1989	“This is a dispute over the assessed value placed upon a federally subsidized low-income housing complex. Our question is whether the public assessor, when making such an assessment for purposes of ad valorem taxation, may consider enhancements to value flowing from benefits enjoyed by the property in the form of various federal subsidies.

	Mississippi)		Because our law mandates that property be valued and assessed according to its true value, we answer in the affirmative.”
Missouri	Maryville Properties, L.P. v. Nelson, 83 S.W.3d 608 (Court of Appeals of Missouri)	2002	“LIHTCs make no direct contribution to the market value of these housing projects. They are intangible property. There is no statutory authority for the consideration of these tax credits in real estate tax appraisal in Missouri.”
Montana	Mont. Code Anno. § 15-6-221	1999	Details requirements for exemption of Section 42 property.
Nebraska	Neb. Rev. Stat. Ann. § 77-1333	2005	The county assessor must perform an income-based valuation of Section 42 property, but may consider specified other professionally accepted mass appraisal methods. “Any low-income housing tax credits authorized under section 42 of the Internal Revenue Code that were granted to owners of the project shall not be considered income for purposes of the calculation but may be considered in determining the capitalization rate to be used when capitalizing the income stream.”
Nebraska	Schuyler Apartment Partners LLC v. Colfax County Board of Equalization, 279 Neb. 989, 783 N.W.2d 587 (Supreme Court of Nebraska)	2010	“While § 77-1333 does indicate that the credits cannot be used as income in conducting an income-approach valuation, the language clearly allows for consideration of those credits in the form of the capitalization rate used to determine the present value of the property.”
New Hampshire	N. H. Rev. Stat. Ann. § 75:1-a	2008	Provides details and procedures for taxpayer election under which taxes on Section 42 property shall be the greater of “(a) The taxes determined using the income approach under this section; or (b) The taxes in an amount equal to 10 percent of the actual rental income and other income.” “The assessed valuation of residential rental property subject to a housing covenant under the low-income housing tax credit program shall not take into consideration the value of intangible assets including, but not limited to, government subsidies or grants, below market rate mortgage financing, and tax credits where such subsidies are used to offset project development expenses in order to allow for restricted rents. The assessed valuation shall not take into consideration the actual cost of acquisition or construction of the project.”
New Hampshire	Steele v. Allenstown, 124 N.H. 487, 471 A.2d 1179 (Supreme Court of New Hampshire)	1984	Government assistance raised rent above market levels. “Both parties agree that the market rents in the area would not have justified building the project and that it would not have been feasible without the government subsidies....The record indicates that the property’s use as a federally subsidized housing complex is the use that will produce the highest market value and the greatest economic return.....Hence, the best and highest use of the property is that of federally subsidized housing.”
New Hampshire	Royal Gardens Co. v. Concord, 114 N.H. 668, 328 A.2d 123 (Supreme Court of New Hampshire)	1974	Section 236 property: error to refuse to consider the effect of federal regulations; they should be weighed to the extent relevant.
New Jersey	Penns Grove Gardens, Ltd. v. Penns Grove Borough, 18 N.J.	1999	Appropriate to consider rental supplements, mortgage insurance, and interest subsidies for Section 236 property. Given “undisputed, credible evidence presented by the municipality's appraiser that there is a separate and distinct subsidized

	Tax 253 (Tax Court of New Jersey)		housing market for this apartment complex ...the court finds that the highest and best use of the subject property is a continuation of its current use for subsidized housing.”
New York	New York Real Property Tax Law § 581-a	2005	Assessment of specified subsidized property to be determined under the income approach as set forth in this section. “The assessed valuation of real property used for such residential rental purposes shall be determined using the actual net operating income, and shall not include federal, state or municipal income tax credits, subsidized mortgage financing, or project grants, where such subsidies are used to offset the project development cost in order to provide for lower initial rents as determined by regulations promulgated by the division of housing and community renewal.”
New York	North Country Housing, Limited Partnership v. Board of Assessment Review, 298 A.D.2d 667, 748 N.Y.S.2d 428 (New York Supreme Court, Appellate Division)	2002	Where government subsidies raise actual rents above market levels, it is appropriate to consider actual rents in the valuation process.
New York	John P. Burke Apartments, Inc. v. Swan, 137 A.D.2d 321, 528 N.Y.S.2d 718 (New York Supreme Court, Appellate Division)	1988	Appropriate to adjust rental figures in the valuation process when actual rents were below market levels.
North Carolina	In the Matter of Appeal of the Greens of Pine Glen Ltd. Partnership, 356 N.C. 642, 576 S.E.2d 316 (Supreme Court of North Carolina)	2003	Fair earning capacity may be considered in addition to or instead of actual earnings. “Unlike a governmental restriction such as zoning, section 42 restrictions do not diminish the property's value, but instead balance tax credits allowed to the developer against rent restrictions imposed on the developer.”
Ohio	Woda Ivy Glen Limited Partnership v. Fayette County Board of Revision, 121 Ohio St. 3d 175, 902 N.E.2d 984 (Supreme Court of Ohio)	2009	“[W]e hold that in the context of appraising real property for tax purposes, the use restrictions imposed under I.R.C. 42 constitute governmental restrictions for the general welfare that must be taken into account when determining the value of LIHTC property.”
Ohio	Canton Towers, Ltd. v. Board of Revision, 3 Ohio St. 3d 4, 444 N.E.2d 1027 (Supreme Court of Ohio)	1983	Appropriate to ignore government subsidies that raise rents above market levels.
Oregon	ORS § 308.205(2)(d)	1977	“If the property is subject to governmental restriction as to use on the assessment date under applicable law or regulation, real market value shall not be based upon sales that reflect for the property a value that the property would have if the use of the property were not subject to the restriction unless adjustments in value are made reflecting the effect of the restrictions.”

Oregon	Bayridge Assoc. Ltd. Partnership v. Department of Revenue, 321 Or. 21, 892 P.2d 1002 (Supreme Court of Oregon)	1995	A voluntary encumbrance can constitute a “governmental restriction as to use.” “[L]imits on what taxpayers may do with their properties, resulting from taxpayers’ participation in the section 42 program, constitute ‘governmental restrictions as to use.’... The most probable price depends on what the buyer will receive in exchange for that price; the buyer will pay only for what it will receive. Thus, the most probable price to be received for the properties at issue would not include the tax credits, because the record shows that the credits would be recaptured if the property were not maintained as low-income housing.”
Pennsylvania	72 Pennsylvania Statutes § 5020-402(c)	2003	“(1) In arriving at the actual value of real property, the impact of applicable rent restrictions, affordability requirements or any other related restrictions prescribed by any Federal or State programs shall be considered. (2) Federal or State income tax credits with respect to property shall not be considered real property or income attributable to real property. (3) This subsection shall apply in all counties and other political subdivisions in this Commonwealth.”
Pennsylvania	In re Appeal of Johnstown Associates , 494 Pa. 433, 431 A.2d 932 (Supreme Court of Pennsylvania)	1981	Section 236 property, limited rents and mortgage subsidies: “[T]he certitudes of a property's not being presently saleable, and of its not having a potential for rental profit increases, both of which are factors unique to Section 236 property, are clearly matters relevant to the question of value and must at least be considered. ... We need not immediately address the question, however, of in what manner consideration of the Section 236 restrictions, and of the fact that they are of limited duration, will affect the estimate of present value.” “[D]epreciation tax shelter benefits associated with investment property ownership inherently affect market value, and the court is not constrained to determine market value as though real property ownership lacked tax shelter features.”
Pennsylvania	Parkside Townhomes Associates v. Board of Assessment Appeals, 711 A.2d 607 (Commonwealth Court of Pennsylvania)	1998	Following <i>Johnstown</i> , lack of potential for rental increases must be considered in assessment; tax shelter features may also be taken into account. Consideration of Section 42 tax credits does not violate the Supremacy Clause or frustrate federal housing policy.
Rhode Island	R.I. Gen. Laws § 44-5-13.11	1995	“Any residential property that has been issued an occupancy permit on or after January 1, 1995, after substantial rehabilitation as defined by the U.S. Department of Housing and Urban Development and is encumbered by a covenant recorded in the land records in favor of a governmental unit or Rhode Island housing and mortgage finance corporation restricting either or both the rents that may be charged to tenants of the property or the incomes of the occupants of the property, is subject to a tax that equals eight percent (8%) of the property’s previous years’ gross scheduled rental income or a lesser percentage as determined by each municipality.”
Rhode Island	Kargman v. Jacobs, 122 R.I. 720, 411 A.2d 1326 (Supreme Court of Rhode Island)	1980	§ 221(d)(3) regulations limiting potential future rent appropriately considered in assessment.
South Carolina	S.C. Code Ann. § 12-37-225	2006	“Federal or state income tax credits for low income housing may not be taken into consideration with respect to the valuation of real property or in determining the fair market value of real property for property tax purposes. For properties that have deed restrictions in effect that promote or provide for low income housing, the income approach must be the method of valuation to be used.”

South Dakota	S.D. Codified Laws § 10-6-78	2009	No county director of equalization may consider any federal income tax credit that is extended to the property owner under sections 38, 42, and 47 of the Internal Revenue Code as of January 1, 2001, for the purpose of assessing any real property.
South Dakota	Town Square Limited Partnership v. Clay County Board of Equalization, 2005 S.D. 99; 704 N.W. 2d 896 (Supreme Court of South Dakota)	2005	In valuing section 42 property, both restricted rents and tax credits must be taken into account. “[W]e think South Dakota law allows for consideration of both the restricted rental rates and the tax credits for LIHTC properties.”
Tennessee	Spring Hill, L.P. v. Tennessee State Board of Equalization, Tenn. Ct. App. No. M2001-02683-COA-R3-CV (Court of Appeals of Tennessee)	2003	“The legislature clearly envisioned that intangible aspects of the property would be included in valuation. The potential to produce income in the future is itself an intangible.... The actual benefits and burdens associated with ownership of the real property, the burden of below-market contract rents or the benefit of interest avoided or tax credits received, reveal how transactions involving the property relate to market realities. The tax credits here illustrate why the below market rents are not the complete picture vis-a-vis the real property, why net operating income or an income approach limited to these rents alone is not reflective of the real property value.”
Texas	Tex. Tax Code §§ 11.182; 11.1825		Provides detailed requirements for full or partial exemption of low-income housing.
Texas	Tex. Tax Code § 11.1825 (x)	2004	Detailed procedures for certain local governments to respond to request for exemption of specified low-income housing by approving the exemption in whole or in part, or denying the exemption “if the governing body determines that: (A) the taxing unit cannot afford the loss of ad valorem tax revenue that would result from approving the exemption; or (B) additional housing for individuals or families meeting the income eligibility requirements of this section is not needed in the territory of the taxing unit.”
Texas	Tex. Tax Code §§ 23.215;	2004	Specified nonexempt property used for low- or moderate-income housing to be valued under the income approach; “In appraising the property, the chief appraiser shall: (1) consider the restrictions provided by this section on the income of the individuals or families to whom the dwelling units of the housing project may be rented and the amount of rent that may be charged for purposes of computing the actual rental income from the property or projecting future rental income; and (2) use the same capitalization rate that the chief appraiser uses to appraise other rent-restricted properties.”
Texas	Dallas Independent School District v. Outreach Housing Corporation/Desoto I, Ltd., 251 S.W.3d 152 (Court of Appeals of Texas)	2008	“[T]he proper application of section 11.1825 involves an assessment of the total potential tax revenue from a property and consideration of the ‘loss’ in tax revenues if a tax exemption is granted. ... Thus, the ‘loss’ referred to in section 11.1825 is loss <i>as a result of approving an exemption</i> , not loss of tax revenue when compared to tax revenues collected before a property is improved.”
Utah	Utah Code Ann. §§ 59-2-102(20)(b); 59-2-102(21)	2004	Section 42 tax credits constitute intangible property.
Utah	Utah Code Ann. § 59-2-301.3	2003	In the case of limited-income rental property subject to an agreement with the Utah Housing Corporation, “a county assessor shall include as part of the assessment any effects the low-income housing covenant may have on the fair

			market value of the real property.”
Utah	Alta Pacific v. Utah State Tax Commission, 307 Utah Adv. Rep. 14, 931 P.2d 103 (Utah Supreme Court)	1997	Appropriate to account for benefits of federal subsidy programs, including above-market guaranteed rents.
Vermont	32 Vt. Stat. Ann. § 3481(1)		For residential rental property subject to a housing subsidy covenant or other legal restriction, prescribes income approach using specified market rents, expenses, vacancy rate, and capitalization rate.
Washington	Rev. Code Wash. § 84.40.030(2)	2007	“Consideration should be given to any agreement, between an owner of rental housing and any government agency, that restricts rental income, appreciation, and liquidity; and to the impact of government restrictions on operating expenses and on ownership rights in general of such housing.”
Washington	Rev. Code Wash. § 84.36.560		Provisions for exemption of specific property used for providing rental housing for very low-income households.
Washington	Cascade Court Limited Partnership v. Noble, 105 Wash. App. 563, 20 P.3d 997 (Court of Appeals of Washington)	2001	“Even a voluntary transaction burdening real property will have economic consequences that must be considered in assessing the property. ... A willing buyer would not buy the property based on rents that the buyer could not charge. Therefore, the Assessor should have taken the restricted rents into account when assessing the property. ... Tax credits are intangible personal property and thus are not subject to real property taxation.”
West Virginia	Stone Brook Limited Partnership v. Sisinni, 224 W. Va. 691; 688 S.E.2d 300 (Supreme Court of Appeals of West Virginia)	2009	While there is no single required appraisal method, “it is nevertheless appropriate to consider the unique characteristics of LIHTC properties when appraising such properties for ad valorem taxation purposes.”
Wisconsin	Wis. Stat. § 70.32(1g)	1999	“Beginning with the property tax assessments as of January 1, 2000, the assessor may not consider the effect on the value of the property of any federal income tax credit that is extended to the property owner under section 42 of the Internal Revenue Code.”
Wisconsin	Metropolitan Holding Company, a general partnership, Petitioner-Appellant-Petitioner, v. Board of Review, 173 Wis. 2d 626; 495 N.W.2d 314 (Supreme Court of Wisconsin)	1993	“[T]he use of estimated market rents when assessing subsidized housing under the capitalization of income approach does not accurately reflect the state of the law.”
Wisconsin	State ex rel., Algoma Housing Company v. Board of Review, 166 Wis. 2d 675; 480 N.W.2d 786 (Court of Appeals of	1991	“Because the restrictions on rent represent a limitation on income that is a factor considered when a purchaser buys a property, we conclude that the price determined by an arms-length transaction represents the value of the property for tax assessment purposes. ... Because income is a major factor in determining the purchase price of real estate in an arms-length purchase of rental property, we conclude that the rental restrictions are reflected in the purchase price and,

	Wisconsin)		therefore, are not to be deducted from the purchase price for assessment purposes.”
Wyoming	In re Appeal of Douglas Wind River Associates Ltd. Partnership, Wyoming State Board of Equalization Docket Nos. 2008-63, 2008-64, 2008-67, 2008-82, 2008-87, 2008-88 (Wyoming State Board of Equalization)	2009	“Petitioners assert the income method is a better valuation approach than the cost method for determining the value of low income housing projects. The Assessors obviously disagree. A mere difference of opinion between a taxpayer and an assessor as to what is the better method, and even what is the better fair market value, is not sufficient to overcome the well established presumption in favor of an assessor’s value which, as in these appeals, has been determined using a valuation method approved by the Department.”