

Secretary's designee, has legal authority to designate DDAs and QCTs, in accordance with 26 U.S.C. 42(d)(5), by publishing lists of geographic entities as defined by, in the case of DDAs, the Census Bureau, the several states and the governments of the insular areas of the United States and, in the case of QCTs, by the Census Bureau; and to establish the effective dates of such lists. The Secretary of the Treasury, through the IRS thereof, has sole legal authority to interpret, and to determine and enforce compliance with the IRC and associated regulations, including **Federal Register** notices published by HUD for purposes of designating DDAs and QCTs. Representations made by any other entity as to the content of HUD notices designating DDAs and QCTs that do not precisely match the language published by HUD should not be relied upon by taxpayers in determining what actions are necessary to comply with HUD notices.

#### Interpretive Examples of Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose DDA status. The examples covering DDAs are equally applicable to QCT designations.

(Case A) Project A is located in a 2015 DDA that is NOT a designated DDA in 2016, 2017, or 2018 and is in a declared county. A complete application for tax credits for Project A is filed with the allocating agency on November 15, 2015. Credits are allocated to Project A on January 30, 2018. Project A is eligible for the increase in basis accorded a project in a 2015 DDA because the application was filed BEFORE January 1, 2016 (the effective date for the 2016 DDA lists), and because tax credits were allocated no later than the end of the 850-day period after the filing of the complete application for an allocation of tax credits.

(Case B) Project B is located in a 2015 DDA that is NOT a designated DDA in 2016, 2017, or 2018 and is in a declared county. A complete application for tax credits for Project B is filed with the allocating agency on December 1, 2015. Credits are allocated to Project B on June 30, 2018. Project B is NOT eligible for the increase in basis accorded a project in a 2015 DDA because, although the application for an allocation of tax credits was filed BEFORE January 1, 2016 (the effective date of the 2016 DDA lists), the tax credits were allocated later than the end of the 850-day period after the filing of the complete application.

(Case C) Project C is located in a 2015 DDA that was not a DDA in 2014.

Project C was placed in service on November 15, 2014. A complete application for tax-exempt bond financing for Project C is filed with the bond-issuing agency on January 15, 2015. The bonds that will support the permanent financing of Project C are issued on September 30, 2015. Project C is NOT eligible for the increase in basis otherwise accorded a project in a 2015 DDA, because the project was placed in service BEFORE January 1, 2015.

(Case D) Project D is located in an area that is a DDA in 2015, but is NOT a DDA in 2016, 2017, or 2018 and is in a declared county. A complete application for tax-exempt bond financing for Project D is filed with the bond-issuing agency on October 30, 2015. Bonds are issued for Project D on January 30, 2018, but Project D is not placed in service until July 30, 2018. Project D is eligible for the increase in basis available to projects located in 2015 DDAs because: (1) One of the two events necessary for triggering the effective date for buildings described in Section 42(h)(4)(B) of the IRC (the two events being bonds issued and buildings placed in service) took place on January 30, 2018, within the 850-day period after a complete application for tax-exempt bond financing was filed, (2) the application was filed during a time when the location of Project D was in a DDA, and (3) both the issuance of the bonds and placement in service of Project D occurred after the application was submitted.

#### Findings and Certifications

##### A. Environmental Impact

This notice involves the establishment of fiscal requirements or procedures that are related to rate and cost determinations and do not constitute a development decision affecting the physical condition of specific project areas or building sites. Accordingly, under 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(6) of HUD's regulations, this notice is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

##### B. Federalism Impact

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the

consultation and funding requirements of section 6 of the executive order. This notice merely designates DDAs as required under IRC Section 42, as amended, for the use by political subdivisions of the states in allocating the LIHTC. As a result, this notice is not subject to review under the order.

Dated: October 19, 2017.

**Kurt G. Usowski,**

*Deputy Assistant Secretary for Economic Affairs.*

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## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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#### Indian Gaming; Tribal-State Class III Gaming Compact Taking Effect in the State of New Mexico

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** The notice announces that the Tribal-State Class III Gaming Compact between the Pueblo of Pojoaque and State of New Mexico is taking effect.

**DATES:** This notice is applicable as of October 26, 2017.

**FOR FURTHER INFORMATION CONTACT:** Ms. Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** Under section 11 of the Indian Gaming Regulatory Act (IGRA) Public Law 100-497, 25 U.S.C. 2701 *et seq.*, the Secretary of the Interior shall publish in the **Federal Register** notice of approved Tribal-State compacts for the purpose of engaging in Class III gaming activities on Indian lands. As required by IGRA and 25 CFR 293.4, all compacts are subject to review and approval by the Secretary. The Secretary took no action on the compact between the Pueblo of Pojoaque and the State of New Mexico within 45 days of its submission. Therefore, the Compact is considered to have been approved, but only to the extent the Compact is consistent with IGRA. *See* 25 U.S.C. 2710(d)(8)(C).

Dated: October 23, 2017.

**Gavin Clarkson,**

*Deputy Assistant Secretary, Policy and Economic Development—Indian Affairs.*

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