

**DELAWARE  
STATE HOUSING AUTHORITY**

**DELAWARE FIRST-TIME HOMEBUYER TAX  
CREDIT**

**MANUAL**

**1-23-16**

**Delaware State Housing Authority  
Delaware First-Time Homebuyer Tax Credit Program  
Manual**

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## **SECTION 1 - INTRODUCTION TO THE DELAWARE FIRST-TIME HOME BUYER TAX CREDIT**

### **1.1 Forward**

Delaware State Housing Authority (the “Issuer”) has created the Delaware First-Time Home Buyer Tax Credit (the “Program”) under authority granted by Congress in the 1984 Tax Reform Act as a means of providing housing assistance to low- and moderate-income homebuyers. The Issuer has authority to issue bonds to assist homebuyers or to exchange its mortgage bond issuance authority for the authority to issue Mortgage Credit Certificates (“DE TAX Credits”) under the Program within the State of Delaware (“Eligible Loan Area”).

This Delaware First-Time Home Buyer Tax Credit Manual (“Manual”) is intended to fully describe the Program, outline the roles of the Issuer, Program Administrator, Lenders, and Applicants, and set forth the requirements for Applicants and Lenders to participate in the Program. The capitalized terms in this Manual that are not defined herein shall have the meanings set forth in Appendix A. The Program Administrator, on behalf of the Issuer, may revise the Program guidelines from time to time. Please note that any statements regarding tax matters in this Manual (including all attachments) cannot be relied upon by any person to avoid tax penalties. Prospective recipients of DE TAX CREDITS should seek advice based on their individual circumstances from their tax advisors.

The Issuer encourages eligible homebuyers, after conferring with a participating Lender regarding the Program’s minimum qualifications, to apply for a DE TAX CREDIT. Current contact information for the Program Issuer and Administrator is as follows:

Gary Hecker  
Delaware State Housing Authority  
820 N. French Street, 10<sup>th</sup> Floor  
Wilmington, Delaware 19801  
302-577-5001  
302-577-5021 Fax  
[www.Destatehousing.com](http://www.Destatehousing.com)

Sharon Gonzalez or Lori Wood  
Hilltop Securities Inc.  
1201 Elm St. Suite 3500  
Dallas, Texas 75270  
214-953-4122 or 214-953-4231

[fschousing@hilltopsecurities.com](mailto:fschousing@hilltopsecurities.com)

## 1.2 What is a Delaware Home Buyer Tax Credit?

A DE TAX CREDIT is a non-refundable federal income tax credit designed to assist persons of low to moderate income to better afford home ownership. The DE TAX CREDIT holder is eligible to claim a portion of the annual interest paid on the mortgage as a special tax credit, not to exceed \$2,000, during each year that they owe amounts on their mortgage loan and occupy the home as their Principal Residence. The amount of the tax credit is equal to the mortgage credit rate on the DE TAX CREDIT (for example 35%) multiplied by the annual interest paid. This credit reduces the federal income taxes of the buyer, resulting in an increase in the buyer's net earnings. Increased buyer income results in increased buyer capacity to qualify for the mortgage loan. The DE TAX CREDIT has the potential of saving the DE TAX CREDIT holder thousands of dollars over the life of the loan. **The DE TAX CREDIT holder must have a tax liability to benefit from the annual credit in any given year.** Please see the Fact Sheet for the Delaware First-Time Homebuyer Tax Credit Rate used in this Program.

## 1.3 The Difference Between a "Tax Credit" and a "Tax Deduction"

A "tax credit" entitles taxpayers to subtract the amount of the credit from their total federal income tax liability, receiving a dollar-for-dollar savings. A "tax deduction" is subtracted from the adjusted gross income before federal income taxes are computed. Therefore, with a deduction, only a percentage of the amount deducted is realized in savings.

## 1.4 DE TAX CREDITS and the Federal Income Tax Mortgage Interest Deduction

A taxpayer receiving an DE TAX CREDIT reduces the portion of his/her normal deduction taken for interest paid on the mortgage loan by the amount of the of tax credit. However, the homebuyer can deduct the portion of the annual mortgage interest payment in excess of the credit. Although the interest deduction is reduced, the holder of the DE TAX CREDIT still pays considerably less in taxes.

The example below assumes the taxpayer is married with two children and has an annual income of \$60,000. The example also assumes the family purchases a home with a loan amount of \$150,000 at a 4.00% interest rate. Interest paid the first year is approximately \$6,000. A DE TAX CREDIT tax credit of 35% of the interest paid would equal \$2,100. ( $35\% \times \$6,000 = \$2,100$ ). However, the maximum annual credit allowable is \$2,000.

**EXAMPLE 1            Benefit Realized with a DE TAX CREDIT**

	<u>With DE TAX CREDIT</u>	<u>No DE TAX CREDIT</u>
Annual Income	\$60,000	\$60,000
Taxable Income	\$36,441	\$34,441
Tax from Table	\$4,734	\$4,434
DE TAX CREDIT	-\$2,000	- 0 -
Child Care Credit	<u>-\$2,000</u>	<u>-\$2,000</u>
<b>Total Tax Liability</b>	<b>\$734</b>	<b>\$2,434</b>

The same taxpayer owes \$1,700 less with a DE TAX CREDIT than without one (\$2,434 - \$734 = \$1,700). Please refer to the Program Administrator’s website for the IRS tax forms that were used in the above example.

The DE TAX CREDIT will reduce the amount of federal income taxes otherwise due to the federal government from the homebuyer; however, the benefit to the homebuyer in any one year cannot exceed the amount of federal taxes owed for that year, after other credits and deductions have been taken into account. In other words, the IRS will not make a refund to the homebuyer if the DE TAX CREDIT amount is greater than the taxes owed. Tax credit amounts not used in a given year may be carried forward into subsequent years, as explained in Section 1.7, below. In addition, the amount paid for a DE TAX CREDIT is not refundable.

**1.5    How a Homebuyer Applies for a DE TAX CREDIT**

The homebuyer may obtain a DE TAX CREDIT through any of the participating Lenders. The homebuyer may contact the Issuer for a list of the participating Lenders. The total allocation of the DE TAX CREDITS for the Program is allocated among participating lenders on a first-come first-served basis. The homebuyer should apply for the DE TAX CREDIT at the same time he or she makes a formal application for a mortgage loan.

During the processing of a mortgage application, the Lender registers the Applicant through <https://mitas.destatehousing.com> and then submitting a DE TAX CREDIT Application Package to the Issuer via secure document upload on behalf of the Applicant. Provided that the Applicant and the chosen residence are eligible, the Issuer provides the Lender with a DE TAX CREDIT Approval that reserves a DE TAX CREDIT for that purchase transaction. The DE TAX CREDIT is issued to the Applicant after the mortgage loan has been closed.

**1.6    How a DE TAX CREDIT Holder Uses the DE TAX CREDIT**

The DE TAX CREDIT holder may receive the DE TAX CREDIT savings as a lump sum annually at the time they file their tax returns or on a pro rata basis monthly by filing a revised Form W-4 with his or her employer to adjust his or her federal income tax withholding. By taking the latter action, the number of exemptions

will increase, reducing the amount of taxes withheld and increasing the buyer's disposable net income. Using Example 1 above, during the first year of the Program, the DE TAX CREDIT holder would be entitled to a tax credit of \$2,000. Based upon such an entitlement, the DE TAX CREDIT holder would be able to file a revised Form W-4 withholding form taking into consideration this tax credit and would have approximately \$166.67 per month in additional disposable income. ( $\$2,000/12 = \$166.67$ ).

In any event, DE TAX CREDIT holders who itemize their deductions may take a deduction for his or her mortgage interest paid each year, less an amount equal to the tax credit taken. (In Example 1 above, the interest deduction would be \$6,000 less \$2,000, or \$4,000). Additionally, when the DE TAX CREDIT holder files his or her taxes each year, he or she must fill out IRS Form 8396 and attach a copy of his or her DE TAX CREDIT with his or her filed taxes. This is not intended to be a full explanation of the tax laws governing DE TAX CREDITS or an assurance that such information will guarantee compliance with the tax laws. The DE TAX CREDIT holder should contact his or her tax advisor or their employer to help them with the necessary tax forms and, if they so choose, to properly adjust their tax withholding.

### **1.7 When the DE TAX CREDIT Exceeds the Tax Liability**

If the amount of the DE TAX CREDIT exceeds the DE TAX CREDIT holder's tax liability, reduced by any other personal credits for the tax year, the unused portion of the DE TAX CREDIT can be carried forward to the next three tax years or until used, whichever comes first. The DE TAX CREDIT holder is responsible for keeping track of the unused credit each year. The current year credit is applied first, and the oldest amount of unused credit applied next.

### **1.8 The DE TAX CREDIT Recapture Tax**

Applicants who receive a DE TAX CREDIT may be subject to a Recapture Tax if they sell the Residence within nine years. The Recapture Tax, if any, will always be the lesser of: half the gain from the sale of the home, or a tax based on a formula which takes into consideration: (1) the original principal amount of the home mortgage; (2) the number of complete years that pass before the Residence is sold; (3) the median family income for the buyer's area at the time he/she bought the Residence, and (4) the buyer's adjusted gross income at the time the Residence is sold. There are several conditions that can exempt the DE TAX CREDIT holder from the Recapture Tax. These include: (a) no net gain on the sale of the property, (b) insufficient increase in the income of the DE TAX CREDIT holder between the time of purchase and the time of sale, (c) sale of the home after the ninth year, and (4) a sale due to death or a transfer to a spouse or ex-spouse incident to a divorce. The homebuyer will receive detailed information on the Recapture Tax from the Lender and will be asked to sign a statement at time of application that he or she is aware of the tax. Please refer to Appendix C for more information regarding Recapture Tax.

## **SECTION 2 - MORTGAGOR ELIGIBILITY**

### **2.1 First-Time Homebuyer Requirement**

The Applicant cannot have had an ownership interest in a Principal Residence at any time during the three-year period prior to the date the mortgage to which the DE TAX CREDIT relates is executed. This requirement does not apply to acquisitions of homes in Targeted Areas or if an Applicant is a Qualified Veteran.

To demonstrate compliance with this requirement, the Lender must obtain from the Applicant a signed (i) DE TAX CREDIT Application and Affidavit and (ii) DE TAX CREDIT Closing Affidavit stating that the Applicant had no present ownership interest in a Principal Residence at any time during the three-year period prior to the date on which the Certificate is issued. This must be verified by the Lender's examination of the Applicant's federal tax returns for the preceding three years (or by acceptable alternate documents, as discussed in Section 2.2 below) to determine whether the Applicant has claimed a deduction for mortgage interest or taxes on real property claimed as a Principal Residence. Any person who has an ownership interest in the home and is listed on the Mortgage has ownership interest, even if he or she does not take a deduction for mortgage interest on his or her federal tax returns. However, a person (for example, a parent of a mortgagor) who is a payer under or a guarantor of a promissory note secured by the mortgage, but who does not occupy and has no present ownership interest in the financed Residence, need not satisfy the First-Time Homebuyer requirement.

Each Applicant is required to submit acceptable documentation with his or her DE TAX CREDIT application to demonstrate that he or she meets the First-Time Homebuyer requirement. The following are the documentation options that will satisfy this requirement:

- a. Each Applicant provides the signed and dated Form 1040, 1040A or 1040EZ federal income tax returns for the past three years (with all schedules) that show no deductions for mortgage interest or real estate taxes for a Principal Residence. If these documents are available, they must be included in the DE TAX CREDIT Application Package.
- b. For Applicants who do not have copies of the actual tax returns submitted to the IRS, the Applicant may submit transcripts from the local IRS office that reflect their three most recent federal tax returns. The transcripts are usually provided free of charge, and can be requested from the IRS by phone, mail or online. The transcripts from the IRS do not have to be signed. Provided that the transcript shows that no mortgage interest deduction was taken, the transcripts can be submitted in lieu of the tax return copies.

- c. Applicants who cannot locate copies of their actual tax returns submitted to the IRS may also request copies of the returns from the IRS using Form 4506. Copies generally will be sent to the Applicant within 6-8 weeks. The IRS may charge a fee for this service.
- d. If the Applicant was not obligated to file federal income tax returns for any of the preceding three years, it will be necessary for the borrower must supply the IRS No Records on File Letter. This document must be included in the DE TAX CREDIT Application Package.

Applications in connection with mortgages closing after April 15<sup>th</sup> of a given year need to be accompanied by the preceding year's tax return, or acceptable substitute documentation, discussed above.

If one or more of an Applicant's tax returns reflect that the Applicant took a deduction for mortgage interest or real estate taxes on rental property claimed not to be the Principal Residence, documentation is required to demonstrate that the primary residence for the applicant was not the same property for which the mortgage interest was claimed.

An ownership interest in a mobile home will be considered a prior ownership interest in a Principal Residence if the mobile home was permanently fixed to land or customarily used at a fixed location.

Remember, except for cases involving a self-employed Applicant, the Applicant submits copies of tax returns NOT to verify Income, but to verify First-Time Homebuyer status.

## **2.2 Income Limitation**

Applicants must have an annual gross household income that is within Program limitations published by the Issuer at the start of each Delaware First-Time Home Buyer Tax Credit. Income is calculated by taking the Applicant's current gross year to date earnings, as well as that of anyone else who is expected to live in the Residence and divide over the time period earned, this number is then multiplied by 12 to determine the applicants' total annual income. For the maximum Income limitations, see the current Fact Sheet. Verification of the Applicant's income is performed by the Lender and the Issuer. All persons will be liable for the Note and Mortgage of the underlying mortgage application must also meet all other individual requirements of the Program, including the First-Time Homebuyer requirement, and each such person must execute all applicable Program Affidavits.

**Two Methods of Computation** The Lender may choose from two methods of Income computation depending on whether the Applicant is employed or self-employed. Generally, Income for an employed person is computed by multiplying the current gross monthly income figure times twelve. Sporadic

income may be averaged and added to that base figure for a total. Income for a self-employed person is computed by averaging the year-to-date total on a current profit and loss statement with the net income figures from the two most recent years' federal income tax returns (with depreciation added back in).

**Source of Income.** The IRS requires that every source of income, taxed or untaxed, be included in the calculation of Income for the DE TAX CREDIT.

**Prior Year Earnings.** On some pay stubs, the year-to-date earnings include pay from the last part of the prior year. In such circumstances, the Applicant should request that the employer provide a signed statement of verification. Otherwise, the Applicant may be deemed to exceed the Income limitations, due to an inflated average, and be disqualified.

### **2.3 Residence Requirement**

The Applicant must use the Residence for which the DE TAX CREDIT is issued as his or her Principal Residence. The Applicant must submit an Affidavit that includes a statement of the Applicant's intent to use the Residence as his or her Principal Residence, within a reasonable time (e.g. 60 days) after loan closing. The Affidavit must further state that the DE TAX CREDIT holder will promptly notify the Lender and the Issuer if the Residence ceases to be his or her Principal Residence. A Residence that is primarily intended to be used as a vacation home or in a trade or business is not a "Principal Residence."

### **2.4 Usage of Residence in a Trade or Business**

The land attached to a Residence will be considered a part of the Residence only if such land reasonably maintains the basic livability of the Residence and does not provide, other than incidentally, a source of income to the mortgagor.

Except for units rented in a two-to-four unit dwelling, where one unit is owner-occupied, the Applicant cannot use more than 15% of the Residence in a trade or business. The Lender will review the Applicant(s) tax returns to see if the Applicant(s) deducted any portion of the cost of the Residence as a home business expense and determine whether more than 15% of the Residence was used. Applicants providing childcare in the home are assumed to be using more than 15% of the residence for business purposes and, therefore, do not qualify for the Program.

### **2.5 DE TAX CREDIT Transfers**

The DE TAX CREDIT is transferrable if certain requirements are met. A loan assumption associated with a DE TAX CREDIT will be treated as a new DE TAX CREDIT application, and the procedures outlined in this Manual must be repeated. Since a DE TAX CREDIT will already be outstanding, a DE TAX CREDIT Approval will not be issued, but all of the required Program documents

must be submitted at one time with the DE TAX CREDIT Application Package. A single DE TAX CREDIT Assumption Fee of \$250.00 will be charged by the Program Administrator in connection with such transfers.

If the loan is assumed by a new purchaser, the DE TAX CREDIT may be transferred under the following circumstances:

- a. The transferee has assumed the liability for the remaining balance of the loan;
- b. The new DE TAX CREDIT must meet all of the conditions to the issuance of an DE TAX CREDIT at the time of transfer; and
- c. The Issuer issues a new DE TAX CREDIT to the transferee.

## **2.6 Qualified Veteran**

A Qualified Veteran means a person who is a “veteran” (as defined in 38 U.S.C. Section 101) who has not previously obtained a loan financed by single-family mortgage revenue bonds or a loan which utilized a Tax Credit using the veteran’s exception to the 3-year requirement set forth in Section 143(d)(2)(D) of the Code. The Qualified Veteran must provide true and correct copies of his or her discharge or release papers, which demonstrate that such discharge or release was other than dishonorable.

## **SECTION 3 - LOAN ELIGIBILITY**

### **3.1 Types of Loans**

Except as set forth in this Manual, the Program does not place restrictions on the mortgage financing with regard to type, term or rate. If a loan is not being financed as an FHA, VA, USDA-RHS, Fannie Mae or Freddie Mac mortgage loan. Only first lien mortgages (as opposed to second lien mortgages) qualify for this Program. In addition, mortgage loans funded through a qualified mortgage bond are not eligible.

### **3.2 New Mortgage Requirement**

A DE TAX CREDIT cannot be issued in conjunction with the acquisition or replacement of an existing mortgage; however, a DE TAX CREDIT can be used in conjunction with the replacement of a construction period loan, bridge loan or other similar temporary initial financing (with a term of 24 months or less). The Lender must obtain from the Applicant, using the Program Affidavits, a statement to the effect that the loan being made in connection with the DE TAX CREDIT will not be used to acquire or replace an existing mortgage or land contract.

## **SECTION 4 - PROPERTY ELIGIBILITY**

### **4.1 Eligible Loan Area**

The home being purchased must be located within the State of Delaware. All homes being purchased may not have an acquisition cost in excess of the applicable program limits.

### **4.2 Qualifying Residences**

A DE TAX CREDIT can be used for either new or existing single-family homes, detached or attached structures, consisting of not more than four connected dwelling units intended for residential housing, each for one family, or a single unit in a condominium, or townhouse. A single unit in a duplex, triplex, or four unit, or an entire duplex, triplex, or four unit can be financed, provided that one of the units will be occupied by the Applicant and the Residence was first occupied for residential purposes at least five years prior to origination of the mortgage loan.

If the subject property has two, three or four units and is in a Non-Targeted Area census tract, the Lender must submit documentation verifying that the structure was first occupied at least five years prior to the date of application. An appraisal or property profile of the subject property showing that it is more than five years old would normally suffice as verification. The five-year requirement does not apply to a duplex in a Targeted Area if the income of the Applicant is 140 percent or less of the applicable median family income.

Manufactured homes are also eligible, but they must meet agency guidelines and Program requirements. To qualify, a manufactured home must be manufactured in a factory after June 15, 1976, be delivered to a home site in more than one section and be affixed on a permanent foundation. The dimensions of the completed dwelling cannot be less than 20 feet by 40 feet, the roof must be sloping, and the siding and roofing must be the same as those found in site-built dwellings.

Mobile homes are allowed but must be permanently affixed to the ground with a poured foundation, and taxed as real property. Mobile homes must have a minimum of 400 square feet of living space and a minimum width in excess of 102 inches.

The following types of properties are not eligible for the Program:

- a. Rental homes
- b. Cooperative housing
- c. Home used as investment property
- d. Recreational, vacation or "second" homes
- e. Motor homes, campers and similar vehicles

Property being purchased must meet the applicable agency guidelines and be located in the Eligible Loan Area.

### **4.3 Purchase Price Limitation**

The Acquisition Cost cannot exceed the maximum Purchase Price limits. The maximum Purchase Price (or Acquisition Cost) figures are based on a percentage of the Average Area Purchase Price, as determined and updated by the IRS. For current maximum Purchase Price figures, see the Fact Sheet on the Issuer's website.

### **4.4 Targeted Area Set-Aside Requirement**

If applicable, certain qualified census tracts within the Eligible Loan Area of the Program will be designated "Targeted Areas" in accordance with section 143(j) of the Code. Applicants purchasing in Targeted Areas do not have to meet the First-Time Homebuyer requirement. Also, the Income and Purchase Price maximums in Targeted Areas are higher.

## **SECTION 5 - HOW TO BECOME A PARTICIPATING LENDER**

### **5.1 Lender Eligibility**

For the Program, a "Lender" is any corporation licensed to originate and/or fund first mortgage loans in the State of Delaware. Lenders planning to offer DE TAX CREDITS to borrowers must first enroll in the Program. To enroll and maintain active status in the Program, a Lender must sign a Lender Participation Agreement and abide by the Program requirements and procedures, including but not limited to:

- a. Designate a contact person for each branch office participating in the Program and for the main business office.
- b. Pay the Program Participation Fee referred to in the Lender Participation Agreement, if applicable. There is currently a \$3,000 fee required to participate.
- c. Require all lending personnel involved in the Program to attend and complete the DE TAX CREDIT training sessions. Lenders will not be listed or allowed access as a participating lender until training has been completed.
- d. Provide this Manual to all personnel involved in the Program.
- e. Return the Applicant's DE TAX CREDIT Closing Package to the Program Administrator within ten days after loan closing or by the end of the Program Period, whichever occurs first.

- f. Cooperate with the Issuer and Program Administrator in providing the highest quality service to all Applicants.

## **SECTION 6 - LOAN PROCESSING AND UNDERWRITING PROCEDURES**

### **6.1 Overview**

In general, Lenders process mortgage loan applications for DE TAX CREDIT Applicants similarly to traditional mortgage applications. The principal difference is that Lenders must process the DE TAX CREDIT application in addition to the mortgage loan.

The procedures below are designed to coincide with the mortgage loan processing and underwriting procedures that are standard in the industry and among most mortgage lending institutions. Recognizing there are procedural variations among the participating Lenders, the procedures outlined herein are meant to serve as guidelines with respect to the sequence of events. However, all the elements of the processing sequence outlined in this Manual must be completed, regardless of sequence, by the Lender, the Issuer, the Applicant, and the Seller.

The Lender will be required to submit certifications stating that, to the best of its knowledge, no material misstatements appear in the application and program documents. If the Lender becomes aware of misstatements, whether negligently or willfully made, it must notify the Issuer who will take action to correct or mitigate the problem.

The Lender must inform the Applicant that criminal penalties are provided by federal and state law if a person makes a false statement or misrepresentation so as to obtain participation in this Program. In an attempt to assure that all requirements are clear, an Affidavit, which is part of the DE TAX CREDIT application, is required to be executed by each Applicant and must be included in the DE TAX CREDIT Application Package that is submitted.

The Program imposes no other restrictions on the type of financing arrangement the Lender uses, and lenders are encouraged to offer DE TAX Credits to borrowers with the Delaware State Housing Authority's "Welcome Home" loan. The Lender is to follow FHA, VA, USDA-RHS, Fannie Mae and Freddie Mac guidelines, as applicable. The Delaware First-Time Home Buyer Tax Credit allows the use of any standard mortgage instrument being generally used in the marketplace and places no restrictions on terms such as the length of the mortgage, underwriting ratios or buyer credit status.

## **6.2 The Steps of Loan Origination and a DE TAX CREDIT Application**

The following is a step-by-step description for the processing of DE TAX CREDIT applications for the Program.

- a. The Applicant applies for a mortgage loan through a participating Lender.
- b. The Lender gives the Applicant a Program brochure and discusses the requirements of the Program to determine eligibility for a DE TAX CREDIT.
- c. The Lender determines that the Applicant is an eligible candidate for an DE TAX CREDIT, based upon, Income, Purchase Price, First-Time Homebuyer status (unless the home being purchased is within a Targeted Area census tract or the Applicant is a Qualified Veteran), tax liability, and the other factors discussed in this Manual.
- d. The Lender asks the Applicant to supply copies of his or her signed income tax returns (or applicable alternatives listed in Section 2.1) for the last three years.
- e. The Lender explains to the Applicant that the Application Fee and if applicable the Issuance Fee (see the Fact Sheet for the amounts) are non-refundable unless funds are no longer available. The Fees must be submitted as a corporate check and sent with the DE TAX CREDIT Closing Package submitted to the program administrator, made payable to Hilltop Securities Inc.
- f. The Lender collects all required Income documentation from the Applicant, including:
  1. If Applicant(s) are employed, a copy of the most recent 30 days year-to-date paystubs. If the Applicant is self-employed, obtain a profit and loss statement for the current year to date income, as well as two prior year's tax returns.
  2. Documentation of all additional sources of Income (see Appendix B for types of Income to be included). The Applicant's spouse must also submit Income documentation.
- g. The Lender reviews the sales agreement for the Residence to determine that the sales price is less than the Program's maximum Purchase Price.

- h. The Lender explains to the Applicant that he or she will receive the DE TAX CREDIT in the mail from the Issuer/Program Administrator after the closing of the mortgage loan.
- i. The Lender explains to the Applicant how to calculate the amount of tax credit that they may be entitled to upon the issuance of the DE TAX CREDIT. DSHA advises that recipients seek advice with a tax advisor.
- j. Upon fully discussing the Program with the Applicant and gathering all of the necessary documentation to verify the Applicant's eligibility, the Lender starts the reservation process.
- k. The Lender reserves funds by logging onto <https://mitas.destatehousing.com>
  - 1. The Lender commits to accept applications for DE TAX CREDITS in all its lending offices within the State of Delaware and, subject to funding limitations, DE TAX CREDIT applications must be accepted and will be issued on a first-come, first-served basis, in compliance with the Fair Housing Act and other Federal and State laws. There will be no restrictions as to the total number of Reservations of Funds issued to any particular Lender except for the Program limits.
  - 2. At the time the Lender makes a Reservation of Funds, the Lender must have a mortgage loan application from an Applicant and the Lender must have made a preliminary determination that the Applicant qualifies for the Program. In addition, the Applicant must have furnished the Lender with a fully executed sales contract or construction contract executed by the Applicant and the seller or builder of a Residence.
  - 3. Beginning on the date designated by the Issuer, the Lenders may begin reserving funds through the Mitas reservation system.
  - 4. The Lender must furnish the Issuer with the DE TAX CREDIT Application Package at least 72 hours prior to loan closing
  - 5. The DE TAX CREDIT reservation is valid for 120 days. 30-day extensions may be allowed with the prior approval of the Issuer, but in no event can a reservation be extended past the expiration of the Program Period.
  - 6. The Issuer will not allow a transfer of any Reservation of Funds from one eligible Applicant to another, but may allow a loan transfer from one approved Lender to another. The Issuer will honor the original Approval Expiration Date as long as all other

conditions are unchanged. The transfer will be recognized and approved by the Issuer only after written notification is received from the originating Lender. The Reservation of Funds committed to an eligible Applicant may be transferred from one property to another with the prior approval of the Issuer.

1. Once a Reservation of Funds has been made, the Lender will print the pre-filled Affidavits provided by the Issuer via Mitas reservation system and or facsimile. The Lender must review these Affidavits for accuracy.
  
- m. The Lender and Applicant together review and execute the DE TAX CREDIT Application and Affidavits, which serve as the application for the DE TAX CREDIT and contains the certifications in affidavit format required by regulations governing the Program. These include:
  1. Certification that the Residence will be used as the Applicant's Principal Residence and the Applicants will promptly notify the Lender and the Issuer if the home ceases to be the Principal Residence of the Applicants;
  2. Certification that the Applicant has not had an ownership interest in a Principal Residence during the preceding 3-year period (not required for property in a Targeted Area or if an Applicant is a Qualified Veteran);
  3. Certification that the Applicant is aware that he or she must have a tax liability to utilize the DE TAX CREDIT annual benefit;
  4. Certification that the Purchase Price does not exceed the Program Purchase Price limits;
  5. Certification that the Residence is located within the Eligible Loan Area;
  6. Certification that the DE TAX CREDIT application accompanies a new mortgage loan, as defined in the Code, unless an exception applies;
  7. Certification that the Lender was selected by the Applicant in his or her sole discretion.
  8. Certification that the Applicant's Income does not exceed permitted Program Income limits;
  9. Certification that no interest on the loan is being paid to a related person;

10. Notice to the Applicant of potential recapture tax. The Lender should provide the Applicant with “The Reality of Recapture Tax” and “Recapture Tax Frequently Asked Questions”, each of which can be found on the Program Administrator’s website. The Lender can refer to Appendix C for additional information on Recapture Tax, as well as refer Applicants to the Program Administrator for any additional questions.
  11. Certification that the DE TAX CREDIT cannot be transferred without the prior written approval of the Issuer in accordance with the Program requirements;
  12. Acknowledgement that statements are made under penalty of perjury and that any material misstatement or fraud may create civil or criminal liability; and
  13. Certification that the Lender’s signature is by an authorized agent of the Lender.
- n. The Lender reviews the DE TAX CREDIT Seller Affidavit provided by the Issuer via Mitas reservation system or email, has Seller execute and submits a copy of the completed and signed DE TAX CREDIT Seller Affidavit in the DE TAX CREDIT Closing Package.
- o. The Lender must furnish the Issuer with the DE TAX CREDIT Application Package at least 72 hours prior to loan closing the Lender transmits to the Issuer by electronic transmission via Mitas the DE TAX CREDIT Application Package containing:
1. Copy of DE TAX CREDIT Application Checklist;
  2. Copy DE TAX CREDIT Application and Affidavit signed by any individual who executes the Note and Mortgage;
  3. Copy of supporting Income documentation (i.e. current pay stubs) for any individuals executing the Note and Mortgage. The Certification of No Income will be required for individuals executing the Note and Mortgage with no income;
  4. Copy of DD214 or discharge papers showing any discharge other than dishonorable, if a Qualified Veteran;
  5. Copy of Loan Application (1003);
  6. Copy of three years prior tax returns. Transcripts from the IRS do not need to be signed. If submitting the forms the Applicant filed with the IRS, they must be signed. Tax returns are required for any individual who executes Note and Mortgage. The No Records on File Letter will be required for individuals executing the Note and Mortgage that were not required to file tax returns the previous three years;

7. Copy of executed purchase contract. Only include the pages that show the contract sales price, addendums to the contract sales price and signatures of Applicant(s) and Seller(s);

In all cases, the Lender should submit the DE TAX CREDIT Application Package and receive the DE TAX CREDIT Approval prior to Closing the mortgage loan.

- p. The Issuer accepts and reviews the contents of the DE TAX CREDIT Application Package within 72 hours of receipt of a complete package. The Issuer will review the complete DE TAX CREDIT Application Packages in the order in which they are received. After the Application Package is approved, the Issuer issues a DE TAX CREDIT Approval to the Lender. The Lender must either: (1) submit the Closing Package; (2) Cancel the reservation via Mitas; or (3) request a 30-day extension. The DE TAX CREDIT Approval Expiration Date is the sooner of: (1) the 30th calendar day after loan closing, (2) 120 days from the issuance of the DE TAX CREDIT Reservation Confirmation, or (3) the end of the Program Period. If the DE TAX CREDIT Application Package is rejected for any reason, the Issuer will send the Lender an email explaining the basis for the rejection.
- q. In addition to the DE TAX CREDIT Approval, the Issuer issues the DE TAX CREDIT Closing Package Checklist and the DE TAX CREDIT Closing Affidavit to the Lender, which must be reviewed, dated and executed at the Closing.
- r. The Issuer maintains a cumulative-to-date total of credit amounts reserved and the aggregate amount of DE TAX CREDITS to be issued, Lenders should view Mitas program funding availability.
- s. The Lender completes the remainder of the mortgage application process according to standard mortgage procedures.

### **6.3 Lender Underwriting and Verification Steps**

- a. The Lender should utilize standard underwriting procedures. Neither the Issuer nor the Program Administrator will underwrite the underlying mortgage loans. All loan approval, underwriting and execution of the required state and federal certifications or Affidavits will be performed by the Lenders participating in the Program.
- b. The Lender may take into consideration the effect of the DE TAX CREDIT when determining the total amount of household Income available for the monthly housing payment in order to determine the Applicant's qualifications. The conventional approval and underwriting standards should be modified to reflect recognition of the DE TAX CREDIT-derived mortgage interest credit in determining housing expense and

indebtedness ratios. The secondary mortgage market and the mortgage insurance industry have established underwriting policies for loans involving DE TAX CREDITS. These are available as policy statements from the mortgage lending industry.

- c. In conjunction with the Lender's regular verification process, and pursuant to the Lender Participation Agreement, the Lender performs reasonable investigation that all Delaware First-Time Home Buyer Tax Credit requirements have been satisfied. The Lender may verify these facts in any reasonable, efficient manner, as dictated by standard industry practices for processing mortgage loan applications.

## **SECTION 7 - LOAN CLOSING PROCEDURES**

### **7.1 Loan Closing**

Once the Lender has received the DE TAX CREDIT Approval, the Lender is allowed to proceed with the Closing of the mortgage loan.

- a. The Lender confirms that the DE TAX CREDIT Approval has not expired and closes the loan in the normal fashion with the Applicant.
- b. Using the DE TAX CREDIT Package Closing Checklist and DE TAX CREDIT Closing Affidavit issued to the Lender with the DE TAX CREDIT Approval, the Lender reviews the form and declares any material changes. The Lender forwards it to the Applicant for execution prior to Closing or to the closing attorney to have the Applicant sign at Closing.
- c. The Lender forwards loan documents:
  - DE TAX CREDIT Seller Affidavit
  - DE TAX CREDIT Closing Affidavit
  - FEES
    - DE TAX CREDIT Issuance Fee
    - DE TAX CREDIT Application Fee

In addition, any other Closing conditions that the Issuer/Program Administrator has specified as found, on the DE TAX CREDIT Closing Package Checklist. The closing attorney will return the proper documentation for the DE TAX CREDIT, along with the executed DE TAX CREDIT Closing Affidavit to the Lender or send the documents directly to the Program Administrator as part of the DE TAX CREDIT Closing Package.

- d. No later than the 30<sup>th</sup> calendar day after the Closing or by the end of the Program Period, whichever occurs first, the Lender or Closing attorney submits the DE TAX CREDIT Closing Package to the Program Administrator's office. The package includes:

1. Copy of DE TAX CREDIT Closing Package Checklist;
2. DE TAX CREDIT Application Fee, and the DE TAX CREDIT Issuance Fee (See Fact Sheet for amounts). These fees must be in the form of a corporate check made payable to Hilltop Securities Inc.;
3. The DE TAX CREDIT Closing Affidavit with the date and signature of Applicant(s), executed in no case more than 14 days before the date the loan is recorded;
4. Copy of mortgage note;
5. Copy of executed DE TAX CREDIT Seller Affidavit if not provided in DE TAX CREDIT Application Package; and
6. Any additional documentation required as a condition of the DE TAX CREDIT Approval.

The DE TAX CREDIT Application Fee and the DE TAX CREDIT Issuance Fee may be paid by the Applicant, the Seller, the Lender or any other person on the Applicant's behalf.

- e. The Program Administrator reviews the Closing Package and verifies that all necessary documents have been submitted within 30 calendar days after the Close of Closing or by the end of the Program Period, whichever occurs first. Upon approval, the Program Administrator issues the DE TAX CREDIT directly to the Applicant(s). The Applicant also receives the completed 009 - DE TAX CREDIT Recapture Tax. If requested by the Lender, the Program Administrator will send the Lender a copy of the DE TAX CREDIT and other documents sent to the Applicant(s) for their records.
- f. The Lenders must adhere to the timeframe of the Program Period and promptly notify the Issuer/Program Administrator via Mitas of any DE TAX CREDIT cancellations and requests for DE TAX CREDIT Approval extensions. **Regardless of the DE TAX CREDIT Approval Expiration Date, the Closing Package is due to the Issuer/Program Administrator no later than 30 calendar days after Closing or by the end of the Program Period, whichever occurs first. At the discretion of the Issuer/Program Administrator, failure to meet this deadline more than once may result in the levying of a Late Submission Fee to the Lender or expulsion from the Program, at the sole discretion of the Issuer.**

## 7.2 Resubmission of DE TAX CREDIT Documentation

If a DE TAX CREDIT Application Package or an DE TAX CREDIT Closing Package has been returned or denied by the Program Administrator, any resubmission, if appropriate, must include all information which the Program Administrator has determined necessary for reconsideration. DE TAX CREDIT Application Packages and DE TAX CREDIT Closing Packages that are not legible or contain multiple errors will be returned to the Lender for correction and resubmission at the Lender's expense.

### 7.3 Cancellation and Approval Expirations

Once a Lender has obtained the DE TAX CREDIT Approval, the Lender is obligated to complete the processing of that DE TAX CREDIT application. The following steps apply in the event of a cancellation or DE TAX CREDIT Approval expiration:

- a. In a case where the Applicant cancels or withdraws his or her application, Lender must cancel the Reservation through Mitas.
- b. In a case where the DE TAX CREDIT Approval expires, the Lender must take one of the following steps, as applicable:
  1. If the loan has closed, and the closing took place within 120 days of the DE TAX CREDIT Approval, submit the extension request on a DE TAX CREDIT Closing Package;
  2. If the loan has not closed, the Lender requests an extension via email to DSHA and provides a new estimated closing date;
  3. If more than 120 days have passed since the DE TAX CREDIT Approval was issued, the DE TAX CREDIT Approval now becomes subject to the availability of Program funds; or
  4. If the loan was cancelled, the Lender submits a cancellation notice, as described in Section 7.3a above.

In all cases, the expiration of the DE TAX CREDIT Approval without the required action by the Lender will result in the following (a) the Lender is placed on "Inactive Status," meaning the Lender may submit no new DE TAX CREDIT applications until the problem is resolved; and (b) the Lender may be charged a Late Submission Fee, at the sole discretion of the Issuer. Late Submission Fees cannot be passed on to the Applicant. Failure to comply with this provision may result in the Lender's expulsion from the Program. **In no event may a mortgage loan close and a DE TAX CREDIT be issued after the expiration of the Program Period.**

### 7.4 Delinquent Closing Documentation

If more than 30 days have passed since the DE TAX CREDIT Approval was issued, the Issuer may contact the Lender to request the status of the loan. If the Lender fails to timely provide to the Issuer the required DE TAX CREDIT closing documentation (or a notice of loan cancellation or request for DE TAX CREDIT Approval extension), the corresponding DE TAX CREDIT application will automatically be considered delinquent. A written notice will be sent to the Lender allowing 30 days to remedy the situation. A copy will be sent to the Applicant as notification that the DE TAX CREDIT cannot be issued until the Lender meets the Program requirements. Such action may result in the Lender being charged a Late Submission Fee and/or suspended from the Program until the problem is remedied. **In no event may a mortgage loan close and a DE TAX CREDIT be issued after the expiration of the Program Period.**

## **7.5 Program Fees and Charges**

The Program Fees are outlined in the Fact Sheet, which is available on the Issuer's website.

Other than the Application Fee and Issuance Fee, the Lender can only charge an Applicant those reasonable fees that the Lender would charge for a non-DE TAX CREDIT mortgage loan application.

## **7.6 Revocations**

- a. Revocation of a DE TAX CREDIT occurs when the Residence for which the DE TAX CREDIT was issued ceases to be the DE TAX CREDIT holder's Principal Residence.
- b. Revocation will occur upon discovery by the Issuer or a participating Lender of any material misstatement, whether negligent or intentional, made in connection with the issuance of the DE TAX CREDIT.
- c. Revocation will occur if it is discovered that the DE TAX CREDIT holder does not meet the requirements for a DE TAX CREDIT.
- d. Revocation will occur if the original mortgage loan is refinanced, unless the Applicant applies for a Re-Issued DE TAX CREDIT after the refinancing has closed. The tax credit may only be claimed for interest paid to the date of the recording of the refinancing, unless a Re-Issued DE TAX CREDIT has been applied for and issued.

## **7.7 Reissued DE TAX CREDITS**

The Program Administrator will, upon payment by the DE TAX CREDIT holder of a DE TAX CREDIT Reissuance Fee, reissue a DE TAX CREDIT for certain refinance transactions if the Program Administrator receives to its satisfaction evidence that:

- a. The reissued DE TAX CREDIT is issued to the holder of an existing DE TAX CREDIT with respect to the same property to which the existing DE TAX CREDIT relates;
- b. The reissued DE TAX CREDIT entirely replaces the existing DE TAX CREDIT (that is, the holder cannot retain the existing DE TAX CREDIT with respect to any portion of the outstanding balance of the certified mortgage indebtedness specified on the existing DE TAX CREDIT);
- c. The certified mortgage indebtedness specified on the reissued DE TAX CREDIT does not exceed the remaining outstanding balance of the certified mortgage indebtedness specified on the existing DE TAX CREDIT;
- d. The reissued DE TAX CREDIT does not increase the DE TAX CREDIT rate specified in the existing DE TAX CREDIT; and
- e. The reissued DE TAX CREDIT does not result in an increase in the tax credit that would otherwise have been allowable to the holder under the existing DE TAX CREDIT for any taxable year. The holder of a reissued DE TAX CREDIT determines the amount of tax credit that would otherwise have been allowable by multiplying the interest that was scheduled to have been paid on the refinanced loan by the DE TAX CREDIT rate of the existing DE TAX CREDIT. In the case of a series of refinance transactions, the tax credit that would otherwise have been allowable is determined from the amount of interest that was scheduled to have been paid on the original loan and the DE TAX CREDIT rate of the original DE TAX CREDIT.

## **7.8 Replacement DE TAX CREDITS**

A fully registered replacement DE TAX CREDITS will be issued by the Program Administrator, subject to the provisions of Section 3.2 and at the expense of the DE TAX CREDIT holder in exchange for or in lieu of a mutilated, destroyed, lost, or stolen DE TAX Credits, so long as such replacement does not result in over issuance of the DE TAX CREDIT. Every new DE TAX CREDIT issued pursuant to this Section shall constitute a replacement of the predecessor DE TAX CREDIT and shall be entitled to all the benefits of the DE TAX CREDIT Resolution. Upon the satisfaction of the Program Administrator and the Issuer that an DE TAX CREDIT has been mutilated, destroyed, lost or stolen, including the surrendering of the mutilated DE TAX CREDIT to the Program Administrator, and upon receipt by the Program Administrator and the Issuer of such indemnity or

security as they may require, the Program Administrator shall cancel the original DE TAX CREDIT, noting in its records that such DE TAX CREDIT was mutilated, destroyed, lost, or stolen, and issue a replacement DE TAX CREDIT.

The Program Administrator shall charge the owner of such DE TAX CREDIT the Program Administrator's reasonable fees and expenses in connection with issuing a replacement DE TAX CREDIT.

## **7.9 Penalties for Applicant Misrepresentation**

Strict penalties may be imposed on any Applicant making a material misstatement, misrepresentation or fraudulent act on a DE TAX CREDIT application or other document submitted to obtain a DE TAX CREDIT. Further, any person making a material misstatement or misrepresentation in any affidavit or certification made in connection with the application for or the issuance of a DE TAX CREDIT shall be subject to all applicable fines and penalties. Any DE TAX CREDIT issued based on materially false information shall be automatically null and void without the need for any further action on behalf of the Issuer.

## **7.10 No Interest Paid to Related Persons**

No interest on the mortgage (or certified indebtedness) amount may be paid to a person who is a "Related Person," as that term is defined under the Code and applicable Treasury Regulations. The Lender must obtain from the Applicant, using the Program Affidavits, a statement to that effect prior to Closing.

## **SECTION 8 - MODIFICATIONS**

### **8.1 Changes in Current Income**

The eligibility of the Applicant for a DE TAX CREDIT is based upon the Applicant's current Income. The Program will issue the DE TAX CREDIT Approval based on facts pertaining to Income as they are determined as of the date the DE TAX CREDIT Approval is issued. The income verified for the DE TAX CREDIT Approval is valid as long as the loan closes within 120 days and there are no additional sources of Income which should have been reported and were not.

Increases in Income sources already reported (i.e., salary increase) will not affect the validity of a DE TAX CREDIT Approval as long as the loan closes within 120 days from the time the DE TAX CREDIT Approval was issued. If the loan does not close within 120 days, a new application for a DE TAX CREDIT must be submitted and current Income verified.

## **8.2 Changes in Acquisition Cost**

If the total Acquisition Cost of the Residence purchased in connection with the DE TAX CREDIT increases so as to exceed the program Purchase Price Limits set forth herein, the DE TAX CREDIT Approval will be revoked. For a change in Acquisition Cost after the DE TAX CREDIT Approval and prior to Closing that does not exceed maximum Purchase Price guidelines, the Lender and Applicant will be required to submit a new version of: (a) copy of the DE TAX CREDIT application (page one amended and initialed by the Applicant), (b) revised Sales Contractor Addendum to Sales Contract (c) copy of the DE TAX CREDIT Seller Affidavit, and (d) revised 1003 application.

## **8.3 Change in Property Address**

If an Applicant has a pending application and changes the property he or she intends to purchase, the Lender must submit a new signed property sales agreement and a notice to the Program Administrator stating whether or not the mortgage amount has changed. If the change occurs after the Program Administrator issues the DE TAX CREDIT Approval, the following documents should be revised and resubmitted to reflect the new property address and any change in mortgage amount:

- a. Copy of DE TAX CREDIT Application and Affidavit (first page amended and initialed by the Applicant)
- b. Property sales contract (first and last pages and any counter offers)
- c. Copy of DE TAX CREDIT Seller Affidavit
- d. Revised 1003

The Issuer reprints the DE TAX CREDIT Approval with the original expiration date, provided that Program funding is available.

## **8.4 Changes in Loan Amount**

Any change to the loan amount (and the Sales Price does not change) that occur after the DE TAX CREDIT Approval is issued, but before the Closing, must be reported to the Issuer immediately in writing by submitting a revised 1003. The change must also be declared on the DE TAX CREDIT Closing Affidavit.

If the amount of the loan increases, thereby causing an increase in the credit amount, the DE TAX CREDIT Approval will be revoked if that increase exceeds Program limitations.

## **8.5 Changes in Home Ownership Status**

If the Applicant acquires a present ownership interest in a Principal Residence prior to the Closing, the DE TAX CREDIT Approval will be revoked.

## **8.6 Lender's Obligation to Notify Issuer of Material Changes**

Issuance of a DE TAX CREDIT Approval is based (in part) upon the Applicant's and Seller's Affidavits and the Lender's certification that the Program requirements have been met. A DE TAX CREDIT Approval is issued subject to the condition that all Program requirements are or will be met prior to issuance of the DE TAX CREDIT. Thus, the Lender must immediately notify the Issuer in writing of any change in the circumstances upon which the DE TAX CREDIT Approval was issued. If any change of circumstances occurs such that the Program requirements are not met, the DE TAX CREDIT Approval will be revoked.

## **SECTION 9 - REPORTING**

### **9.1 Lender Record Keeping and Federal Report Filing**

- a. The Lender is required by the IRS to file a report on or before January 31 for all of the DE TAX CREDITS issued during the previous calendar year. Prior to the filing date, the Program Administrator will send the Lender a completed IRS Form 8329 with the DE TAX CREDITS issued by the Lender during the previous year. It is the Lender's responsibility to verify that the information on the form is correct and, if necessary, make any changes or additions and then submit the form to the IRS.
- b. For six years following the year in which the Loan is made, the Lender must retain the following information:
  1. Name, mailing address, and TIN (social security number or taxpayer identification number) of the DE TAX CREDIT holder.
  2. Name, mailing address, and TIN of the Issuer.
  3. Date of issuance for each loan, the certified amount of indebtedness and the certificate credit rate of the DE TAX CREDIT.
- c. The Program Administrator, on behalf of the Issuer, may conduct audits of participating Lender records to ensure compliance with the recordkeeping provisions.

### **9.2 Program Administrator Reports**

The Program Administrator, on behalf of the Issuer, must make quarterly reports on IRS Form 8330, beginning with the quarter in which the election for the Delaware First-Time Home Buyer Tax Credit is made. The report must include:

- a. Name, address, and TIN of the Issuer;
- b. Date of election;

- c. The sum of the products of the certified indebtedness amount (the mortgage amount or the initial principal balance) and the DE TAX CREDIT rate for each DE TAX CREDIT issued; and
- d. Name, address, and TIN of each DE TAX CREDIT holder where a DE TAX CREDIT was revoked.

### **9.3 Program Administrator Annual Record Keeping**

The Program Administrator shall make an annual report to the IRS for each year beginning July 1 and ending June 30. The report will include the information required by the applicable U.S. Treasury Regulations, including:

- a. Number of DE TAX CREDITS issued by Income and Acquisition Cost; and
- b. Volume of DE TAX CREDITS issued by Income and Acquisition Cost.

By January 31<sup>st</sup>, for any DE TAX CREDIT issued the prior calendar year, the Program Administrator, on behalf of the Issuer, will send an IRS Form 8396, Mortgage Interest Credit, to each DE TAX CREDIT holder of record as a reminder to properly declare the DE TAX CREDIT tax credit for federal income tax purposes.

## **SECTION 10 - AFFIDAVITS**

### **10.1 Affidavits**

The Program Affidavits can be found attached to this Manual and on the Issuer's website. The Reservation of Funds will be completed by the Lender.

Lender has the option to use the Affidavits attached to this Manual or available on the Issuer's website. If a Lender chooses to manually complete the Affidavits, when completing them, be sure they are legible and accurate. All blanks must be completed. If a question is not applicable, insert N/A in the blanks for the answer.

Changes to the Affidavits must be initialed by the Lender and the appropriate party.

Signatures under Power of Attorney are acceptable, provided that a copy of the Power of Attorney is included in the DE TAX CREDIT Application Package or DE TAX CREDIT Closing Package submitted to the Program Administrator.

## APPENDICES

- A. DEFINITIONS
- B. INCOME GUIDELINES
- C. RECAPTURE TAX

## APPENDIX A

### DEFINITIONS

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

**ACQUISITION COST** is used interchangeably with “Purchase Price”. As new Average Area Purchase Price figures are determined, the maximum Purchase Price represents 90% of the Average Area Purchase Price for new and previously occupied homes. In Targeted Area census tracts, the maximum Purchase Price is 110% of the Average Area Purchase Price for new and previously occupied homes. The maximum Purchase Price limits can be found in the Fact Sheet.

The term “Acquisition Cost” has the meaning given under Section 143(k) (3) of the Code and the Treasury Regulations promulgated thereunder, which generally is the cost to an Applicant of acquiring a Residence from the Seller as a completed residential unit, including:

- All amounts paid by the Applicant for the Residence.
- If the Residence is incomplete, the reasonable cost of completing the Residence.
- If the Residence is purchased subject to a ground lease, the capitalized value of the ground rent.

Acquisition Cost **does not** include:

- Usual and reasonable settlement or financing costs, but only if such costs is not more than the usual and reasonable costs that would be paid if there were not a DE TAX CREDIT. Settlement costs include titling and transfer costs, title insurance, survey fees, or other similar costs. Financing costs include credit reference fees, legal fees, appraisal expenses, “points” that are paid by the Applicant, (but not points paid by the Seller) or other costs of financing the Residence.
- The value of services performed by the Applicant or members of the Applicant’s family in completing the Residence. The Acquisition Cost includes the cost of materials provided and work performed by subcontractors – whether or not related to the Applicant – but does not include the imputed cost of any labor actually performed by the Applicant or member of the Applicant’s family. For these purposes, family includes only the Applicant’s brothers and sisters, spouse, ancestors and lineal descendants.

For purposes of determining Acquisition Cost, costs of land related to a Residence will be treated as follows:

- If the Applicant has owned the land for more than two years prior to the date construction begins on a Residence, the Acquisition Cost does not include the land.

- If the land has been owned for less than two years prior to the date construction begins on a Residence, the Acquisition Cost includes the cost of land.
- In cases where the land is received through inheritance or as a gift, Acquisition Cost includes the value of land.

The Acquisition Cost limitations are set forth in the Fact Sheet.

**AFFIDAVIT** means written statements made under oath and subject to the penalties of perjury that are filed in support of a DE TAX CREDIT application.

**AGGREGATE DE TAX CREDIT ISSUANCE AUTHORITY** means the total amount of funds available to issue DE TAX CREDITS. See the Fact Sheet for the amount of funding available.

**APPLICANT, BORROWER, MORTGAGOR or HOMEBUYER** means any person who applies for a DE TAX CREDIT under the Program who is in the process of securing financing for the purchase of a Principal Residence.

**AVERAGE AREA PURCHASE PRICE** means with respect to a Residence, the safe harbor average area purchase price figures most recently published by the Treasury Department for the statistical area (i.e., "metropolitan statistical area" as defined by the Secretary of Commerce, or county (or portion of a county) that is not within a metropolitan statistical area) in which such Residence is located, or such other average area purchase price figures for statistical area for which there is more accurate and comprehensive data, as confirmed by the Internal Revenue Service or approved by the Issuer's bond counsel, as stated separately for New Housing and Existing Housing. Such figures may change from time to time.

**DATE OF CLOSING** means the date the mortgage loan is executed.

**CODE** means the Internal Revenue Code of 1986, as amended.

**APPROVAL or DE TAX CREDIT APPROVAL** is the securing of Program funds as evidence by an Approval issued by the Program Administrator based on funding availability and review of application documentation and the Lender's certification that the requirements necessary for issuance of a qualified DE TAX CREDIT have been met. A DE TAX CREDIT Approval will be valid for 120 days or through the end of the Program Period. Generally, the Program permits an Approval for a loan that has not been funded. Depending on the circumstances, exceptions can be made. These exceptions may require payment of penalties by the Lender.

**RESERVATION EXPIRATION DATE** means the date the DE TAX CREDIT Reservation expires. The DE TAX CREDIT Reservation Expiration Date is the earliest of: (1) the 30th calendar day after the Closing, (2) 120 days from the

issuance of the DE TAX CREDIT Reservation, or (3) the end of the Program Period.

**ELIGIBLE LOAN AREA** means the geographical area designated for the Delaware First-Time Home Buyer Tax Credit by the Issuer. See the Fact Sheet for the Eligible Loan Area.

**EXISTING HOUSING** means a dwelling unit that has been previously occupied prior to the mortgage loan application.

**FACT SHEET** means the fact sheet found on the Program Administrator's website that contains Program specific information.

**FIRST-TIME HOMEBUYER** means a person who has not had a present ownership interest in a "Principal Residence" at any time during the three-year period ending on the Closing Date. Present ownership interests include these interests under the definition of "ownership".

**INCOME** means sources of revenue or income of the mortgagor (or mortgagors) and any other person who is expected to live in the Residence being financed and includes all income derived from any source including income from wages, gross pay, overtime, pension, veterans compensation, bonuses, public assistance, alimony, net rental income, dividends and interest, and income from business activities or investments. The maximum Income limits can be found in the Fact Sheet. See Appendix B for more information on Income.

**ISSUER** means the housing finance corporation that is authorized to issue DE TAX CREDITS for the Program as stated on the Fact Sheet.

**LATE SUBMISSION FEE** means the fee paid by the Lender to the Issuer when the Lender consistently submits DE TAX CREDIT Closing Packages late in the amount of \$100.00. The payment of this fee will be at the discretion of the Issuer.

**LENDER** means an institutional lender regulated by state or federal law, or any other entity that makes loans in its regular course of business that would qualify for DE TAX CREDIT assistance, is authorized to do business in the Eligible Loan Area, and who has entered into a Lender Participation Agreement with the Issuer. A participating Lender can be either a Lender, correspondent or mortgage broker.

**LENDER PARTICIPATION AGREEMENT** means the various Lender Participation Agreements entered into by the Issuer, on behalf of the Issuer, and various Lenders, as they may be amended or supplemented, and relating to the issuance of the DE TAX CREDITS.

**MANUAL** means the Delaware First-Time Home Buyer Tax Credit Manual; as such document may be amended or supplemented from time to time.

**DE TAX CREDIT APPLICATION FEE** means the fee paid by the Applicant, the Seller, the Lender or any other person on the Applicant's behalf in accordance with agency guidelines for the review and issuance of the DE TAX CREDIT Approval. See the Fact Sheet for the amount.

**DE TAX CREDIT APPLICATION PACKAGE** means the package submitted to the Issuer/Program Administrator by the Lender once a Reservation of Funds have been made as stated in the Manual.

**DE TAX CREDIT CLOSING PACKAGE** means the package submitted to the Program Administrator by the Lender within 30 calendar days of closing, 120 days of Reservation, or by the end of the Program Period whichever occurs first.

**DE TAX CREDIT ISSUANCE FEE** means the fee paid by the Applicant, the Seller, the Lender or any other person on the Applicant's behalf in accordance with agency guidelines, which is the basis for the DE TAX CREDIT. See the Fact Sheet for the amount.

**DE TAX CREDIT RESOLUTION** means the resolution, or authorization, given by the governing body of the Issuer pursuant to which DE TAX CREDITS are issued.

**DELAWARE FIRST-TIME HOMEBUYER TAX CREDIT RATE** means the rate specified by the Program for the DE TAX CREDIT. See the Fact Sheet for the Delaware First-Time Homebuyer Tax Credit Rate.

**DELAWARE FIRST-TIME HOMEBUYER TAX CREDIT (DE TAX CREDIT)** means a document issued by the Issuer that entitles the holder to claim a federal income tax credit. This tax credit is designed to reduce the federal income tax liability of a qualified buyer purchasing a qualified Residence in order that he/she will have more disposable income to apply towards his/her mortgage payments. The DE TAX CREDIT is issued by the Program Administrator pursuant to Section 25 of the Internal Revenue Code of 1986, as amended and applicable state and local requirements. For a DE TAX CREDIT issued pursuant to the terms and conditions of the Program, the annual federal income tax credit may not exceed \$2,000.

**NEW HOUSING** means a dwelling unit that is proposed to be constructed, currently under construction, or existing but not previously occupied.

**OWNERSHIP:** means any of the following interests in residential real property:

- fee simple interest
- joint tenancy
- tenancy in common
- tenancy by the entirety

- interest of a tenant-shareholder in a cooperative
- life estate
- land contract
- interest held in trust for the Applicant that would constitute a present ownership interest if held by the Applicant
- community property

Ownership does not include a remainder interest, a lease with or without an option to purchase, a mere expectancy to inherit an interest in a Principal Residence, any interest acquired on the execution of the purchase contract or an interest in other than a Principal Residence. An Ownership interest in a mobile home or other factory-made housing that is permanently affixed to real property owned by the Applicant constitutes Ownership.

**PRINCIPAL RESIDENCE** means a Residence (or a unit in a two-to-four family Residence) that can reasonably be expected to be occupied by the Applicant as the principal residence of the Applicant. The term “Principal Residence” does not include a residence used as an investment property or as a recreational home or a residence that is primarily intended to be used in a trade or business, as evidenced by the use of more than 15% of the total area in a trade or business. Any use of a home that does not qualify for a deduction allowable for certain expenses incurred in connection with the business use of a home under section 280A of the Code shall not be considered as a use in a trade or business.

**PROGRAM** means the Delaware First-Time Home Buyer Tax Credit established by the Issuer and administered by the Program Administrator, pursuant to the rules and regulations included in the Manual.

**PROGRAM ADMINISTRATOR** means Hilltop Securities Inc. (HSI) or any successor as administrator for the Program on behalf of the Issuer.

**PROGRAM PARTICIPATION FEE** means a fee to be paid by the Lender to the Issuer to become a participating Lender. See the Lender Participation Agreement for the amount, if applicable.

**PROGRAM PERIOD** means the period during which mortgage loans to which Mortgage Credit Certificates relate can be issued. A DE TAX CREDIT will not apply to any mortgage loan that is incurred after the end of the Program Period. The Program Period can be found in the Fact Sheet.

**PURCHASE PRICE** In all Delaware First-Time Home Buyer Tax Credit documents, “Purchase Price” is used interchangeably with “Acquisition Cost”, defined above.

**QUALIFIED VETERAN** means a person who meets the definition of a “veteran” in Section 101 of Title 38, United States Code and who has not previously obtained a loan financed by single family mortgage revenue bonds or a loan

which utilized a Delaware First-Time Home Buyer Tax Credit using the veteran's exception to the 3-year requirement set forth in Section 143(d) (2) (D) of the Code. The Qualified Veteran must provide true and correct copies of his or her form DD214 which demonstrate that such discharge or release was other than dishonorable.

**RECAPTURE TAX** If a home is purchased in connection with a DE TAX CREDIT and that home is sold within nine years from the date of closing, the DE TAX CREDIT holder may be subject to a recapture tax in the year in which the sale takes place. Please see Appendix C for a complete explanation of the Recapture Tax.

**RESERVATION OF FUNDS** means the funds reserved with the Issuer for a DE TAX CREDIT Approval.

**RESERVATION CONFIRMATION** means the confirmation provided to the Lender by the Issuer once the Reservation of Funds have been made.

**RESIDENCE** means real property and improvements permanently affixed thereon (i) that is located within the Eligible Loan Area; (ii) that consists of (A) a new or existing single family detached or attached structure consisting of not more than four connected dwelling units intended for residential housing for one family, (B) a single unit in a condominium, townhouse, duplex, triplex, or four unit, or (C) an entire duplex, triplex, or four unit, provided that one of the units will be occupied by the Applicant and the Residence was first occupied for residential purposes at least five years prior to origination of the mortgage loan (except as set forth below) (but in no case including a mobile home or any personal property); and (iii) the Acquisition Cost of which does not exceed the maximum Acquisition Cost; provided, however, that land appurtenant to a Residence shall be considered as part of such Residence only if such land reasonably maintains the basic livability of such Residence and does not provide, other than incidentally, a source of income to the Mortgagor. The requirement that a multiple unit building have first been occupied for residential purposes at least five years prior to the Closing of the mortgage loan does not apply in the case of a two-family Residence that is a Targeted Area Residence and the Income of the Applicant does not exceed 140% of the Applicable Median Family Income (for families of three or more) or 120% of the Applicable Median Family Income (for families of two or less). No portion of a Residence shall consist of a health club facility, a facility primarily used for gambling, or a store the principal business of which is the sale of alcoholic beverages for consumption off premises. The term Residence does not include recreational vehicles, campers, and other similar vehicles. It does not include property such as appliances or furniture, which, under applicable law, are not fixtures.

**SELLER** means the party that is selling the Residence to the Applicant.

**SINGLE-FAMILY RESIDENCE** For purposes of determining eligibility of a home to be purchased under this Program, the term “single-family” Residence means a housing unit intended and used for occupancy by one household.

**TARGETED AREA or TARGETED CENSUS TRACT** means part of the Eligible Loan Area that has been or may be designated from time to time as a “qualified census tract” or an “area of chronic economic distress” in accordance with Section 143(j) of the Code. Any Targeted Areas determined by the Issuer within the Eligible Loan Area are listed on the Fact Sheet.

**TARGETED AREA ORIGINATION PERIOD** means the period during which the Targeted Area Reservation is set aside exclusively for the origination of Targeted Area DE TAX CREDITS by the Lenders. Any Targeted Area Reservation remaining after the end of the Targeted Area Origination Period will be made available throughout the Eligible Loan Area.

**TARGETED AREA RESERVATION** means 20% of the Issuer’s DE TAX CREDIT authority reserved for DE TAX CREDITS in connection with home mortgage loan in Targeted Areas.

## APPENDIX B

### INCOME GUIDELINES

#### “General Guide”

The Issuer and the Program Administrator are relying on the Lenders and Applicants to provide correct information on income. This reliance is based upon the Lender certifications regarding the Lender’s reasonable investigation of the Applicant and statements by the Applicant that facts are correct.

Each Lender and Applicant provides information and signed certifications regarding the information provided and its correctness. In the event of false statements or fraud, there are substantial penalties, which may be levied. The Lenders and the Applicants are required to provide accurate information and assure that calculations are within the limits.

**IN MOST CASES, STANDARD CREDIT UNDERWRITING PROCEDURES ARE ACCEPTABLE. THE MAIN EXCEPTION IS THAT FOR DE TAX CREDIT COMPLIANCE PURPOSES ALL SOURCES OF INCOME MUST BE INCLUDED, WHETHER OR NOT USED TO QUALIFY APPLICANTS UNDER STANDARD UNDERWRITING GUIDELINES.** Under no circumstances will the income used for DE TAX CREDIT compliance be less than that used by the Lender when qualifying Applicants for repayment of their mortgage loan. (The maximum Income limits are specified in the Fact Sheet.)

It is important to understand the basis upon which these guidelines are written. Congress has instituted maximum Income limits under which Applicants may qualify for loans made available through tax credits. Congress and the Treasury Department have determined that the total of all sources of income of the Applicants may not exceed the maximum Income levels to receive the benefits of the DE TAX CREDIT. The total Income is to be verified by the Affidavit and is signed.

In cases that have complicated calculations, the Lenders are encouraged to communicate with the Program Administrator or Issuer to ensure that calculations are within the guidelines.

The Program’s maximum Income limits are set pursuant to the Internal Revenue Code and restrictions of the Federal Department of Housing and Urban Development. For purposes of whether an Applicant has exceeded the maximum Income limit, the gross income of the Applicant(s) must be determined. **The income of the following persons must be taken into account:**

1. Any mortgagor (or co-mortgagor) liable on the mortgage loan (i.e. on the Note and Mortgage/Mortgage).
2. Any other person expected to live in the financed Residence.

The income of any persons listed on the Note and Mortgage/Mortgage must be included to determine eligibility for the Program. Typically in a co-signer or guarantor executes the Note, but such person's income is not included in the calculation of income unless such person is expected to live in the Residence.

Information with respect to current gross monthly income may be obtained from available loan documents which include but are not limited to, paycheck stubs, and loan applications.

## APPENDIX C

### RECAPTURE TAX

According to Section 25(i) of the Internal Revenue Code of 1986, which incorporates by cross reference Section 143(m) of the Code, as amended (the "Code") homebuyers with loans closing after January 1, 1991, who receive a DE Tax Credit may be subject to a "Recapture Tax" if they sell or transfer their residence within nine years after the Closing. A number of factors determine the amount of Recapture Tax, if any, the Applicant must pay.

The Recapture Tax liability will be the lesser of: (1) 50 percent of the gain from the sale of the residence or (2) the potential Recapture Tax, as computed through the following formula:

$$\text{PRT} = 6.25\% \times P \times H \times \frac{M - (\text{IL} \times 1.05^Y)}{5000}$$

PRT = potential Recapture Tax M = DE TAX CREDIT holder's adjusted gross income at sale

P = original principal amount IL = original Income limit

H = holding period percentage Y = number of complete years DE TAX CREDIT holder owned the residence

NOTE: If "M - (IL x 1.05 Y)" is greater than \$5,000, that amount is treated as equal to \$5,000.

Some DE TAX CREDIT holders who sell their home within nine years will not be subject to any Recapture Tax. Generally, a DE TAX CREDIT holder will incur a Recapture Tax only if the transfer meets all of the following:

1. The residence is sold or transferred within nine years.
2. The sale or transfer results in a GAIN.
3. The residence is not transferred due to death or to a spouse or a former spouse incident to a divorce.
4. The income of the DE TAX CREDIT holder must exceed an amount which equals a compounded increase of 5% per year over the qualifying Income in effect when the home was first purchased with the DE TAX CREDIT. (This maximum income amount is referred to as the "Income Threshold".)

Further, if the DE TAX CREDIT holder's income exceeds the Income Threshold by less than \$5,000, the seller is entitled to a reduction in the Recapture Tax.

There are two basic steps in computing the Recapture Tax: (1) compute the Recapture Tax by multiplying the original principal balance by a percentage assigned to the year in which the residence is sold; and (2) if the DE TAX CREDIT holder's income exceeds the Income Threshold by less than \$5,000, reduce the tax by multiplying it times the excess income divided by \$5,000.

## EXAMPLE

The following is an example of how to compute the Recapture Tax in a situation where the DE TAX CREDIT holder is selling the residence between the first and second year after the mortgage closing, the original loan amount is \$100,000, and the DE TAX CREDIT holder's income exceeds the Income Threshold by \$3,000.

STEP 1 - First, the loan amount of \$100,000 is multiplied by 2.5%, the percentage in the table below that is assigned to a sale between the 1st and 2nd year after closing.

**MPRT**  
**(MAXIMUM POTENTIAL RECAPTURE TAX)**  
Dollar Amount of Original Mortgage = \$100,000

<u>Date of Sale or Transfer of Home Before</u>	<u>Percentage</u>	<u>Dollar Amount</u>
1 year after Mortgage Closing:	1.25%	\$ 1,250.00
1 or more years, but less than 2 years after Mortgage Closing:	2.50%	\$ 2,500.00
2 or more years, but less than 3 years after Mortgage Closing:	3.75%	\$ 3,750.00
3 or more years, but less than 4 years after Mortgage Closing:	5.00%	\$ 5,000.00
4 or more years, but less than 5 years after Mortgage Closing:	6.25%	\$ 6,250.00
5 or more years, but less than 6 years after Mortgage Closing:	5.00%	\$ 5,000.00
6 or more years, but less than 7 years after Mortgage Closing:	3.75%	\$ 3,750.00
7 or more years, but less than 8 years after Mortgage Closing:	2.50%	\$ 2,500.00
8 or more years, but less than 9 years after Mortgage Closing:	1.25%	\$ 1,250.00

STEP 2 - Multiply the tax computed in Step 1 (\$2,500) by \$3,000 (excess income) divided by \$5,000.

$$\frac{\$2,500 \times \$3,000}{\$5,000} = \$2,500 \times 60\% = \$1,500$$

FINALLY - The DE TAX CREDIT holder's Recapture Tax will be \$1,500 or 50 percent of the gain from the sale of the home, whichever is less.

### Lender's Responsibility Regarding Recapture Tax

The Internal Revenue Service (the "IRS") requires that the Lender:

1. Has a basic understanding of the Recapture Tax and explains it to the Applicant before collecting the DE TAX CREDIT Application Fee from the Applicant.

2. Have the Applicant sign the form entitled "DE TAX CREDIT Application and Affidavit." This is then included in the DE TAX CREDIT Application Package to the Issuer/Program Administrator.

In an effort to clearly and adequately explain the Recapture Tax, the Program uses a three page form entitled "Notice to Mortgagor of Information Regarding Potential Recapture Tax" or "009 - DE TAX CREDIT Recapture Tax Notice and Mortgagors Affidavit". This form is generated by the Program Administrator and is tailored to reflect the particular loan amount and income thresholds that pertain to the Applicant. The Program Administrator forwards it to the Applicant with the DE Tax Credit after loan closing.

**NOTE:** The Applicant should be advised to consult a tax advisor or the local office of the IRS for any in-depth questions about recapture, or when the property is sold or otherwise disposed of to determine the amount, if any, of the actual Recapture Tax.