



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

May 25, 2006

MORTGAGEE LETTER 2006 -13

TO: ALL APPROVED MORTGAGEES

SUBJECT: Charitable Organizations Making Downpayment Gifts

Federal Housing Administration (FHA) approved mortgagees that seek FHA mortgage insurance on loans secured by single family houses, on which downpayment assistance has been provided to the borrower in the form of gifts, are required to determine that the gifts are from sources acceptable to FHA.

Paragraph 2-10 C of handbook HUD-4155.1 REV-5 provides that the donor of any such gift must be the borrower's relative, the borrower's employer or labor union, a charitable organization, a governmental agency or public entity that has a program to provide homeownership assistance to low- and moderate-income families or first-time homebuyers, or a close friend with a clearly defined and documented interest in the borrower. For FHA, charitable organizations are those nonprofits that are exempt from income taxation under section 501(a) of the Internal Revenue Service Code (IRC) of 1986 pursuant to section 501(c)(3) of the IRC.

This Mortgagee Letter advises mortgagees about how to determine whether a gift from a charitable organization can be used for all, or part, of the borrower's downpayment when the organization providing the gift for the downpayment loses or gives up its federal tax-exempt status. Provided that the homebuyer has entered into a contract of sale (including any amendments to purchase price) on, or before, the date the IRS officially announces that the charitable organization's tax-exempt status is terminated, FHA will recognize the gift—if made to the homebuyer and properly documented—as an acceptable source of the downpayment. FHA believes this policy avoids harm to any homebuyer who, in good faith, has entered into a contract of sale in anticipation of receiving a gift for the downpayment from such a charitable organization.

The mortgagee is responsible for ensuring that an entity is a charitable organization as defined above. One resource available to mortgagees for obtaining this information is the Internal Revenue Service (IRS) Publication 78, *Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, which contains a list of organizations eligible to receive tax-deductible charitable contributions. The IRS has an online version of this list that can help mortgagees and others conduct a search of these organizations. The online version can be found at: <http://apps.irs.gov/app/pub78>, using the following instructions to obtain the latest update.

- Enter search data and click "Search"
- Click "Search for Charities" under "Charities & Non-Profits Topics"
- Click "Recent Deletions from Cumulative List" under "Additional Information"

- Click name of organization if that name appears on list of names under “Recent Deletions from Cumulative List (Publication 78)”

In addition, FHA has developed a web page that provides a listing of downpayment assistance providers whose nonprofit status has been revoked. This page can be found at: <http://www.hud.gov/offices/hsg/sfh/np/irstatus.cfm>

FHA continues to examine downpayment assistance programs and will provide appropriate notification about any changes that may be made to existing policies.

Please note that Mortgagee Letter 2005-02 provides guidance to mortgagees and appraisers about their responsibilities for reporting sales concessions and verifying sales data, including downpayment assistance provided by the seller or any other party involved in the transaction.

If you have any questions regarding this Mortgagee Letter, call 1-800-CALLFHA.

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing-
Federal Housing Commissioner