Army Regulation 210–47

Installations

State and Local Taxation of Lessee's Interest in Wherry Act Housing (Title VIII of the National Housing Act)

Headquarters
Department of the Army
Washington, DC
22 May 1969

UNCLASSIFIED

SUMMARY of CHANGE

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Effective 1 August 1969

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State and Local Taxation of Lessee's Interest in Wherry Act Housing (Title VIII of the National Housing Act)

By Order of the Secretary of the Army:

W. C. WESTMORELAND
General, United States Army
Chief of Staff

Official:

KENNETH G. WICKHAM
Major General, United States Army
The Adjutant General

History. This UPDATE issue is a reprint of the original form of this regulation that was published on 22 May 1969. Since that time, no changes have been issued to amend the original. This publication has been reorganized to make it compatible with the Army electronic publishing database. No content has been changed.

Summary. This revision is published to convert regulation to large size format, to correct mailing addresses of Federal agencies, and to eliminate projects in appendix A which are no longer current.

Applicability. Not Applicable.

Proponent and exception authority. Not Applicable.

Army management control process. Not Applicable.

Supplementation. Local supplementation of this regulation is prohibited except upon approval of the Chief of Engineers.

Suggested Improvements. The proponent agency of this regulation is the Office of the Chief of Engineers. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) to Chief of Engineers, ATTN: ENGRE–MC, Department of the Army, Washington, DC 20315.

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*This regulation supersedes AR 210–47, 19 October 1960, including all changes.

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RESERVED

1. Purpose

This regulation sets forth basic policies and principles governing determinations to be made regarding deductions from State or local taxes or assessments on the interest of lessees in or with respect to Wherry housing projects under the jurisdiction of the Department of the Army and the Atomic Energy Commission.

2. Definitions

For the purpose of this regulation the following definitions apply:

a. Wherry Housing. Housing insured under the provisions of Title VIII of the National Housing Act in effect prior to 11 August 1955. (Act of 8 August 1949, 63 Stat. 570, as amended; 12 U.S.C. 1748 et seq.).

b. Lessee. Individual, corporation, or other entity leasing site from Federal Government for operation of Wherry housing project.

3. Scope

This regulation applies to all Wherry housing projects whether or not situated on land leased from the Federal Government.

4. Statutory authority

Section 511 of the Housing Act of 1956 (70 Stat. 1110, note following 42 U.S.C. 1594). By amendment of the National Housing Act the Congress provided that nothing contained in the provisions of Title VII of the National Housing Act, *supra*, in effect prior to 11 August 1955, or any related provision of law will be construed to exempt from State or local taxes or assessments the interest of a lessee from the Federal Government in or with respect to any property covered by a mortgage insured under such provisions of Title VIII. It was further provided, however, that no such taxes or assessments (not paid or encumbering such property or interest prior to 15 June 1956) on the interest of such lessee should exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to any payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property, plus such amount as may be appropriate for any expenditures made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal, or any other services or facilities which are customarily provided by the State, county, city or other local taxing authority with respect to such other similar property.

5. Effect

Since State and local taxes imposed upon the interest of lessees in Wherry housing projects would normally affect rentals paid by military personnel and civilian employees of the military departments, the Congress has, in effect, provided such taxes may not exceed State and local taxes imposed upon property similar to Wherry projects less the deduction authorized by section 511, Housing Act of 1956, *supra*.This deduction is based upon payments made by the Federal Government to the local taxing or other public agencies involved with respect to the Wherry project and expenditures made by the Federal Government or the lessee for the provision of services and facilities which are customarily provided by the State or local taxing authority with respect to other similar property.

6. Delegation of authority

Section 511, Housing Act of 1956, *supra*, authorizes the Secretary of Defense or his designee to determine the amount of the deductions. This authority with respect to Wherry housing under the jurisdiction of the Department of the Army and the Atomic Energy Commission has been delegated, in turn, to the Secretary of the Army, to the Deputy Chief of Staff for Logistics, and to the designees listed in appendix A. Hereafter, in this regulation, the determination of deductions will be referred to as a "section 511 determination" and a deduction in connection therewith will be referred to as a "section 511 deduction."

7. Applicability

Section 511 deductions are applicable only as to taxes and assessments paid or encumbering the Wherry housing project or interest of the lessee on or after 15 June 1956.

8. Deductions

Each designee listed in appendix A with respect to Wherry housing projects under his jurisdiction will, for each tax year, take the actions described below in preparing section 511 determinations. Such of the information resulting from these actions as is appropriate may be entered on the tax analysis form appearing in appendix D which may be used in making the determination, if desired.

a. Determine, with the assistance of the lessee, where required, the amount of all permissible deductions for—

(1) *Services and facilities provided by the military department or the lessee.*

(a) Services may include, but are not limited to, the maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal, fire and police protection, or any other services which are customarily provided with respect to similar property by the State, county, city, or other local governmental agencies. Determination of deductions for provision of such services will be based on all relevant considerations; the amounts of deductions may be computed as the actual cost or the portion of the local government's budget generally attributable to such services.

(b) Facilities may include, but are not limited to, streets, sidewalks, curbs, sewers, lighting, or any other facilities which are customarily provided with respect to similar property by the State, county, city, or other local government agencies. Determination of annual deductions for provision of these facilities will be based on all relevant considerations including amortization of capital cost based on the anticipated useful life of the facility.

(c) In the event the lessee fails to cooperate by furnishing data, concerning expenditures by the lessee for relevant services and facilities, such data are available from the local offices of the Federal Housing Administration.

(2) *Payments made by other Federal agencies for services and facilities.*

(a) Services.

1. Payments for services in this category are made principally under the School Assistance Program in Federally affected areas; the U.S. Office of Education which administers this program has agreed to furnish entitlement data for school districts receiving payments relating to Federal aid for education itself (under Public Law 874, 81st Congress) (*d* below) for school children residing in Wherry projects upon request. If dependents residing in a Wherry project attend schools supported by a taxing authority in whose jurisdiction the dependents do not reside and school payments are made to the education agency responsible for such schools, the payments may be considered expenditures with respect to taxes or assessments levied by the taxing authority which would otherwise be required to furnish such schooling. Payments to local educational agencies made under Public Law 874, 81st Congress (*d* below) are reported by the Department of Health, Education, and Welfare on a fiscal year basis (1 July-30 June). If the tax period is a different 12-month period, e.g., a calendar year, corresponding adjustments should be made in the Public Law 874 data. *Example*: If the tax period is calendar year 1957, the proper deduction for payments made under Public Law 874 would be the total of one-half the fiscal year 1957 payments and one-half the fiscal year 1958 payments reported by Department of Health, Education, and Welfare. Except for the mentioned adjustments, Public Law 874 data, as reported by the Department of Health, Education, and Welfare, will be utilized in unaltered form. Requests for this information must identify the Wherry projects for which information is desired by FHA project number(s), project name, location, and number of units; requests should be in writing and should be addressed to the Chief of Engineers, ATTN: ENGRE–M, Department of the Army, Washington DC 20315.

2. If payments are made or services are provided by other Federal agencies, appropriate deductions will be made therefor. Information as to the cost of or grants for such services may be obtained directly from the servicing agency.

(b) Facilities.

1. Payments for facilities in this category are made principally under the School Assistance Program of the U.S. Office of Education. That office has agreed to furnish information as to the amount of entitlements to Federal grants to aid in the construction of school facilities (under Public Law 815, 81st Congress) (*d* below) for school districts involved with children residing in Wherry projects. Requests for this information must be made separately for each individual Wherry project for which information is desired; each individual request must identify the Wherry project and must be addressed as prescribed above. Determination of the annual deductions for provision of these facilities will be based on all relevant considerations, including amortization of capital cost in accordance with local school bonding practices. The total Public Law 815 deduction in any year will consist of the sum of the annual deductions for payments made under Public Law 815 prior to the beginning of the tax year for which the section 511 determination is being made and the prorated annual deductions for payments made under Public Law 815 during the tax year for which the section 511 determination is being made.

2. Payments for other facilities in this category were made under the Defense Housing and Community Facilities Act of 1951 (65 Stat. 293), as amended (42 U.S.C. 1591 et seq.). Appendix B contains a list of community facility projects developed under that Act. If it is known or believed that a Wherry project is served by one or more of these facilities, determination of appropriate tax deductions therefor will be made only after verification with the Director, Land and Facilities Development Administration, Department of Housing and Urban Development, 1730 K Street, NW, Washington, DC 20410.

3. If facilities were provided by any other Federal agencies, appropriate deductions will be made therefor. Information as to the cost of or grants for such facilities may be obtained directly from the agency involved.

b. Give appropriate consideration to the legality of taxes or assessments on the lessee's interest under State and Federal law and to the comparability of such taxes or assessments with respect to those on other similar property of similar value. Except for determination of appropriate deductions, the statutory provision gives no authority to the Secretary of Defense or his designee with respect to the taxes or assessments imposed upon the lessee's interest in a Wherry project. Questions with reference thereto are primarily for resolution by the lessee with the taxing authorities. However, in view of the interest of the Army in rentals paid by its personnel, appropriate designees listed in appendix A, should—

(1) Investigate the validity and propriety of applicable taxes or assessments, e.g., whether they are being properly imposed under State constitutions, statutes, and ordinances; whether they exceed taxes or assessments on comparable property; or whether they properly reflect factors affecting the leasehold value, such as partial occupancy, lessened need for the Wherry project because of reduction of military activities in the installation concerned, or abnormal depreciation.

(2) Request the Federal Housing Administration to furnish any available information as to taxes or assessments upon comparable privately owned housing projects, preferably within the same taxing jurisdiction as the Wherry project.

(3) Advise the lessee that taxes and assessments on his leasehold interest may not legally exceed those imposed on similar property of similar value, less deductions as determined under *a* above.

c. The period for which section 511 deductions are computed should correspond to the period of the State or local tax involved. The tax period, which may be either a calendar year or a fiscal year, may be ascertained from either the legal counsel available to the designees authorized to make the determinations (e.g., the staff judge advocate), the lessee, or the State or local taxing authority.

d. Occasionally, State and local taxes are imposed upon the leasehold interest by several State or local taxing authorities. A copy of the invoice or bill for each State or local tax, and a copy of the budget of such authority, should be obtained from the lessee. The budget of the local authority is frequently printed on the reverse of the tax bill, of the budget of such authority, should be obtained directly from the taxing authority involved, or is otherwise readily available. Such budget will indicate the nature of governmental services furnished by the taxing authority in question and may be obtained from the lessee, the local office of the Federal Housing Administration, or directly from the local authorities concerned. Payments made by the Federal Government and expenditures for services furnished by the Federal Government or the lessee will be included in a section 511 determination only with respect to the governmental services customarily furnished by the State or local taxing authority concerned which imposes a tax upon the leasehold interest. In this connection, reference is made to *a*(1)*(a)*above concerning the valuation of such services generally. In the event that State and local taxes are imposed by more than one State or local taxing authority, separate determinations of deductions will be issued with respect to each such State or local authority. Each such determination will be confined to the Federal payments and Federal and lessee expenditures related to the governmental services customarily furnished by the State or local authority in question. For example, Federal payments under Public Law 874, 81st Congress (act of 30 September 1950, 64 Stat. 1100, as amended, 20 U.S.C. 236 et seq.) (*a*(2)*(a)1* above) and the amortized deductible amount under Public Law 815, 81st Congress (act of 23 September 1950, 64 Stat. 967, as amended, 20 U.S.C. 631 et seq.) (*a*(2)*(b)1* above) may be utilized as deductions only with respect to State or local taxes imposed by the local authority furnishing educational services.

e. Section 511 determination should be issued for each tax year in a timely manner; i.e., prior to the due date for the payment by the lessee of the State and local taxes involved. Timely issuance will eliminate such complications as interest and penalties resulting from late payment of taxes and the filing of claims for refund by the lessee in the event that taxes in the gross amount are initially paid. In this latter connection, it is considered that a lessee is entitled to file a claim for refund in the amount of section 511 determination if he initially paid the gross amount of the State and local taxes and State law permits the filing of claims generally for tax refunds with the local authority concerned.

9. Wherry leasehold interests acquired by the Government

Section 511 determinations will not be issued covering tax periods—

a. Subsequent to acquisition of the leasehold interest by the Department of the Army pursuant to Section 512, Housing Act of 1956 (70 Stat. 1111, 42 U.S.C. 1594a), provided, however, that all existing tax liens are discharged upon acquisition of the project;

b. During which the leasehold interest is held.

10. Self-determination of Federal and Lessee expenditures by local taxing authorities

Where the assessed valuation of a leasehold interest is substantially below that of similar property of similar value in apparent recognition by the local taxing authorities of Federal and lessee expenditures with respect to the Wherry project, the following procedures will be followed:

a. The net amount of State and local taxes which might be imposed should be computed by determining the gross amount of local taxes payable by the lessee in the event his leasehold interest was subjected to a full assessment, using similar property of similar value in the locality for comparison, and subtracting therefrom the allowable section 511 deductions.

b. In the event the net amount computed according to *a*above—

(1) Exceeds the State and local taxes actually imposed upon the leasehold interest, the determination should be retained in the files of the designee listed in appendix A as evidence of compliance with section 511, Housing Act of 1956, *supra*, and a copy furnished the

Chief of Engineers, ATTN: ENGRE–M but should not be issued to the other persons and agencies named in paragraph 12.

(2) Is less than the State and local taxes actually imposed upon the leasehold interest, the determination of deductions should be issued.

11. Legal review of proposed determinations

Each proposed section 511 determination should be reviewed by legal counsel (e.g., the staff judge advocate) for legal sufficiency.

12. Issuance of section 511 determination

Each designee listed in appendix A with respect to Wherry housing projects under his jurisdiction will transmit the original copy of completed section 511 determinations to the lessee of the project involved, and will transmit a copy to—

a. The local taxing authority concerned;

b. The local FHA insuring office, and to the Director, Project Mortgage Servicing Division, FHA, Department of Housing and Urban Development, Washington, DC 20411, where a mortgage on the project is held or insured by the FHA;

c. The U.S. Atomic Energy Commission, Washington, DC 20545 (AEC projects only); and

d. The Chief of Engineers, Department of the Army, ATTN: ENGRE–M.

Note. Section 511 determinations will not be issued for periods subsequent to the transfer by the United States to one or more private parties of title to the Wherry project buildings and the land on which the Wherry project buildings are located.

13. Improper, invalid, or excessive taxes

If a tax or assessment is considered for any reason to be improper, invalid, or excessive (para 8), or if legal problems arise concerning a proposed deduction (para 8), a statement of all pertinent facts and essential documents should be transmitted through channels to The Judge Advocate General, ATTN: Chief, Procurement Law Division, Department of the Army, Washington, DC 20310, for advice.

14. Coordination

Where a State or local authority is taxing a lessee's interest in Navy or Air Force Wherry housing, as well as a Department of the Army project, coordination should be effected with representatives of such other service prior to final determination of deductions, to avoid unnecessary disparity.

15. Challenges by State and local authorities of determinations

In the event that the validity of a section 511 determination is challenged, or it is anticipated that it will be challenged or not accorded full force and effect, separate reports of the situation will be forwarded immediately by the designee listed in appendix A (through the Commanding General, United States Continental Army Command, with respect to a project within the conterminous United States) to The Judge Advocate General, ATTN: Chief, Procurement Law Division, Department of the Army, Washington, DC 20310. Such report will include information as to the action, if any, proposed to be taken, and copies thereof will be distributed to—

a. The Secretary of the Navy;

b. The Secretary of the Air Force;

c. The local FHA insuring office, and to the Director, Project Mortgage Servicing Division, FHA, Department of Housing and Urban Development, Washington, DC 20411, where a mortgage on the project is held or insured by the FHA;

d. The U.S. Atomic Energy Commission, Washington, DC 20545 (AEC projects only); and

e. The Chief of Engineers, ATTN: ENGRE–M.

16. Followup actions

In each case where a section 511 determination is made the designee listed in appendix A will take followup action to ascertain whether—

a. The lessee has requested the taxing authority to reduce or eliminate the tax on the project,

b. The local taxing authority agrees to eliminate or reduce tax (challenges should be handled as detailed in para 15),

c. The lessee has requested the mortgagee to reduce or eliminate its tax escrow demands or withhold imposing an escrow,

d. FHA approves the tax escrow adjustment,

e. Rental reduction resulted and if so date of approval of such reduction by FHA and date the reduced rentals were put into effect at the project. The results of these followup actions will be entered on the Wherry Housing Tax Deduction Analysis (DA Form 2149–R) for use in computing the determination, if desired. DA Form 2149–R (image size 12 ⅜ by 7 inches) will be reproduced locally on 13- by 8-inch paper. If followup reveals that any of the anticipated steps leading to a rental reduction are being unduly delayed or will not be taken, and on which action by higher authority is requested, the situation should be referred to the Chief of Engineers, ATTN: ENGRE–M, with a full explanation of the surrounding facts.

DESIGNATION OF COMMANDERS AUTHORIZED TO DETERMINE DEDUCTIONS UNDER SECTION 511, HOUSING ACT OF 7 AUGUST 1956

Designee	*Wherry housing projects*
Commanding General, First United States Army.	Fort Holabird, MD Paducah, KY (AEC)
Commanding General, Third United States Army.	Fort Monroe, VA Oak Ridge, TN (AEC)
Commanding General, Fourth United States Army.	Fort McPherson, GA Fort Wolters, TX
Commanding General, Fifth United States Army.	U.S. Army Support Center, Chicago, IL
Commanding General, Sixth United States Army.	Richland, WA (AEC)
Commanding General, U.S. Army Materiel Command.	Anniston Army Depot, AL Atlanta Army Depot, GA Blue Grass Army Depot, KY Detroit Arsenal, MI Navajo Army Depot, AZ Sierra Army Depot, CA Tobyhanna Army Depot, PA Tooele Army Depot, UT (including Wherry Housing at Deseret Depot Activity).

STATUS OF APPROVED DEFENSE COMMUNITY FACILITIES PROJECTS AS OF 30 JUNE 1956; PUBLIC LAW 139 82d CONGRESS AS AMENDED

Project No.	*Location*	*Type*	*Federal funds*		*Total cost*	*Status*
Ala. 1–CF–2	Ozark	Water	$156, 743. 87	(G)	$305, 022. 87	100%
Alaska 50–CF–1	Fairbanks	Water	627, 250. 00	(G)	777, 250. 00	100%
Ariz. 2–CF–11	Tucson	Sewer	238, 313. 36	(G)	553, 313. 36	100%
Ark. 3–CF–1	Benton	Water	224, 945. 00	(G)	303, 629. 01	100%
Ark. 3–CF–2	Camden	Sewerage	52, 087. 87	(G)	52, 097. 87	100%
Calif. 4–CF–9	Fort Hueneme	Water	39, 980. 00	(G)	114, 729. 79	100%
Calif. 4–CF–10	Ridgecrest	Sewer	203, 166. 45	(G)	503, 166. 45	100%
			29, 000. 00	(L)		
Calif. 4–CF–12	Fort Hueneme	Sewerage	52, 328. 13	(G)	89, 735. 13	100%
Calif. 4–CF–18	San Diego	Water	44, 625. 00	(G)	133, 875. 00	100%
Calif. 4–CF–27	San Diego	Water	102, 713. 00	(G)	466, 613. 00	100%
Calif. 4–CF–35	Palmdale	Sewer	44, 550. 00	(G)	104, 176. 21	100%
Colo. 5–CF–2	Trinidad	Water	32, 087. 79	(G)	39, 478. 79	100%
Fla. 8–CF–1	Key West	Sewer	164, 000. 00	(L)	1, 161, 464. 00	100%
			536, 158. 00	(G)		
Fla. 8–CF–2	Fort Walton Beach	Sewer	240, 000. 00	(G)	390, 000. 00	29%
Ga. 9–CF–2	Marietta	Water	202, 383. 03	(G)	2, 086, 042. 03	100%
Ga. 9–CF–2	Augusta	Water	762, 235. 00	(G)	2, 036, 136. 12	100%
Ga. 9–CF–3	Augusta	Sewer	292, 100. 00	(G)	778, 100. 00	100%
Ga. 9–CF–4	Augusta	Fire Protection	78, 056. 53	(G)	88, 060. 53	100%
Ga. 9–CF–5	Augusta	Police Protection	153, 859. 87	(G)	170, 959. 78	100%
Ga. 9–CF–13	Warner Robins	Water	293, 000. 00	(L)	655, 000. 00	100%
			302, 000. 00	(G)		
Ga. 9–CF–14	Warner Robins	Sewer	307, 000. 00	(L)	574, 000. 00	100%
			205, 000. 00	(G)		
Ga. 9–CF–15	Glennville	Sewerage	32, 659. 00	(G)	80, 000. 00	100%
Ga. 9–CF–16	Glennville	Water	31, 804. 00	(G)	84, 000. 00	100%
Idaho 10–CF–1	Arco	Water	56, 708. 35	(G)	99, 993. 35	100%
Idaho 10–CF–4	Mt. Home	Sewer	8, 696. 56	(G)	25, 085. 56	100%
Ill. 11–CF–1	Rantoul	Street Improvement	350, 000. 00	(G)	597, 979. 95	100%
Ill. 11–CF–2	Rantoul	Water & Sewer	160, 011. 00	(G)	339, 000. 00	100%
Ind. 12–CF–1	Lawrence	Water	87, 000. 00	(L)	310, 000. 00	100%
			87, 000. 00	(G)		
Ind. 12–CF–2	Lawrence	Sewerage	458, 000. 00	(L)	792, 706. 00	100%
			233, 466. 00	(G)		
Kans. 14–CF–2	Topeka	San. Sewer	199, 501. 18	(G)	199, 501. 18	100%
Kans. 14–CF–4	Wichita	Water	1, 374, 500. 00	(G)	7, 184, 980. 00	100%
Ky. 15–CF–3	Elizabethtown	Water	153, 177. 46	(G)	307, 808. 46	100%
Ky. 15–CF–6	La Center	Water & Sewer	49, 346. 73	(G)	129, 477. 73	100%
Ky. 15–CF–8	Paducah	Storm Sewers	1, 227, 700. 00	(G)	1, 227, 700. 00	100%
La. 16–CF–1	Alexandria	Sewer	59, 877. 84	(G)	59, 877. 84	100%
Maine 17–CF–4	Brunswick	Sewer	33, 764. 05	(G)	33, 764. 05	100%
Mich. 20–CF–1	Oscoda	Water	4, 943. 27	(G)	6, 284. 27	(A)
Mo. 23–CF–2	Dixon	Sewer	26, 645. 38	(G)	73, 922. 53	100%
Mo. 23–CF–7	Warrensburg	Sewer	1, 000. 00	(G)	1, 000. 00	(A)
Mo. 23–CF–8	Warrensburg	Sewer	2, 000. 00	(G)	2, 000. 00	(A)
Mo. 23–CF–11	Knob Noster	Sewer	46, 662. 00	(G)	64, 142. 00	100%
Mo. 23–CF–14	Grandview	Sewer	200, 000. 00	(G)	428, 000. 00	(NS)
Nev. 26–CF–2	Sparks	Sewerage	23, 430. 00	(G)	116, 508. 00	100%
Nev. 26–CF–4	Panaca	Water	26, 000. 00	(L)	46, 492. 88	100%
			12, 492. 88	(G)		
N.J. 28–CF–1	Lakehurst	Sewerage	15, 587. 50	(G)	17, 827. 50	100%
N.M. 29–CF–1	Alamogordo	Water	509, 844. 08	(G)	509, 844. 08	100%

See note at end of table.

Project No.	Location	Type	Federal funds		Total cost	Status
N.M. 29–CF–3	Farmington	Sewerage	$83, 652. 23	(G)	$93, 652. 23	100%
N.M. 29–CF–5	Las Cruces	Water	150, 000. 00	(G)	250, 000. 00	(NS)
N.C. 31–CF–1	Jacksonville	Sewer	113, 800. 00	(L)	190, 693. 81	100%
			76, 893. 81	(G)		
N.C. 31–CF–2	Jacksonville	Water	73, 600. 00	(L)	220, 000. 00	100%
			146, 400. 00	(G)		
N.C. 31–CF–5	Swansboro	Water	24, 000. 00	(L)	77, 000. 72	100%
			53, 000. 72	(G)		
N.C. 31–CF–6	Swansboro	Sewer	35, 400. 00	(G)	35, 400. 00	100%
N.D. 32–CF–1	Wildrose	Water & Sewer	28, 476. 90	(G)	150, 703. 15	100%
Ohio 33–CF–1	Vandalia	Sewer	84, 500. 00	(G)	132, 012. 25	100%
Ohio 33–CF–3	Piketon	Sewer	380, 000. 00	(G)	389, 907. 31	100%
Ohio 33–CF–4	Waverly	Water	35, 000. 00	(L)	229, 650. 00	100%
			194, 650. 00	(G)		
Ohio 33–CF–5	Waverly	Sewer	40, 000. 00	(L)	300, 650. 00	100%
			260, 650. 00	(G)		
Okla. 34–CF–1	Lawton	Water	148, 100. 10	(G)	148, 100. 10	100%
Okla. 34–CF–2	Lawton	Sewerage	61, 089. 89	(G)	61, 089. 89	100%
Okla. 34–CF–3	Lawton	Fire Protection	22, 174. 62	(G)	22, 174. 62	100%
S.C. 38–CF–1	Branwell	Water	127, 383. 15	(G)	152, 883. 15	100%
S.C. 38–CF–2	Branwell	Sewerage	106, 026. 46	(G)	132, 626. 46	100%
S.C. 38–CF–3	Blackville	Water	52, 919. 25	(G)	88, 280. 25	100%
S.C. 38–CF–4	Blackville	Sewerage	85, 119. 29	(G)	96, 319. 29	100%
S.C. 38–CF–5	N. Augusta	Water	287, 412. 07	(G)	481, 712. 07	100%
S.C. 38–CF–6	Aiken	Water	632, 027. 58	(G)	893, 327. 58	100%
S.C. 38–CF–7	Aiken	Sewerage	50, 075. 14	(G)	231, 875. 14	100%
S.C. 38–CF–8	Williston	Water	69, 000. 00	(L)	215, 183. 59	100%
			146, 183. 59	(G)		
S.C. 38–CF–9	Williston	Sewerage	87, 000. 00	(L)	303, 054. 77	100%
			216, 054. 77	(G)		
S.C. 38–CF–10	Allendale	Sewerage	92, 026. 41	(G)	140, 326. 41	100%
S.C. 38–CF–11	Barnwell	Fire & Police	72, 694. 74	(G)	93, 694. 74	100%
S.C. 38–CF–12	N. Augusta	Sewerage	250, 184. 45	(G)	296, 184. 45	100%
S.C. 38–CF–14	Jackson	Water	106, 000. 00	(L)	201, 392. 38	100%
			95, 392. 38	(G)		
S.C. 38–CF–16	Aiken	Police Protection	47, 889. 74	(G)	47, 909. 74	100%
S.C. 38–CF–17	Aiken	Fire	20, 767. 77	(G)	20, 767. 77	100%
S.C. 38–CF–18	N. Augusta	Fire & Police	63, 900. 00	(G)	71, 000. 00	100%
S.C. 38–CF–19	Williston	Fire & Police	50, 750. 00	(G)	68, 750. 00	100%
S.C. 38–CF–21	New Ellenton	Water	95, 000. 00	(L)	167, 309. 59	100%
			71, 179. 56	(G)		
Tenn. 40–CF–8	Smyrna	Water	40, 200. 00	(G)	81, 400. 00	(NS)
Tenn. 40–CF–9	Smyrna	Sewer	109, 800. 00	(G)	219, 900. 00	(NS)
Tenn. 40–CF–10	Kingston	Water	51, 500. 00	(G)	51, 500. 00	(NS)
Tenn. 40–CF–11	Kingston	Sewer	102, 500. 00	(G)	231, 000. 00	(NS)
Tex. 41–CF–1	Mineral Wells	Water	46, 388. 35	(G)	86, 388. 35	100%
Tex. 41–CF–2	Killeen	Water & Sewer	120, 000. 00	(L)	493, 144. 14	100%
			289, 426. 14	(G)		
Tex. 41–CF–3	Lone Star	Water & Sewer	294, 000. 00	(L)	294, 710. 87	100%
Tex. 41–CF–4	Belton	Water & Sewer	58, 246. 74	(G)	60, 400. 74	100%
Tex. 41–CF–5	Copperas Cove	Water & Sewer	74, 000. 00	(L)	339, 203. 64	100%
			215, 203. 83	(G)		
Tex. 41–CF–6	Port Lavaca	Water	177, 169. 18	(G)	181, 663. 18	100%
Tex. 41–CF–7	Killeen	Street Improv	261, 736. 18	(G)	396, 736. 18	100%
Tex. 41–CF–8	San Marcos	Water & Sewer	154, 000. 00	(L)	154, 000. 00	100%
Tex. 41–CF–9	Port Lavaca	Sewer	37, 856. 00	(G)	47, 412. 91	100%
Tex. 41–CF–10	Weatherford	Water & Sewer	36, 612. 47	(G)	77, 612. 47	100%
Tex. 41–CF–13	Angleton	Water	213, 100. 00	(G)	213, 819. 31	100%
Tex. 41–CF–14	Angleton	Sewerage	22, 440. 00	(G)	23, 453. 93	100%

See note at end of table.

Project No.	Location	Type	Federal funds		Total cost	Status
Tex. 41–CF–16	Mineral Wells	Water	$350, 000. 00	(L)	$544, 176. 10	100%
			194, 176. 10	(G)		
Tex. 41–CF–18	Velasco	Water & Sewer	229, 303. 81	(G)	229, 303. 81	100%
Tex. 41–CF–20	Daingerfield	Water	110, 879. 75	(G)	111, 285. 75	100%
Tex. 41–CF–21	Daingerfield	Fire Protection	15, 160. 00	(G)	24, 160. 00	100%
Tex. 41–CG–23	Rockdale	Water & Sewer	204, 526. 18	(G)	241, 671. 18	100%
Utah 42–CF–1	Moab	Water & Sewer	113, 000. 00	(G)	198, 000. 00	(NS)
			49, 000. 00	(L)		
Va. 44–CF–1	Hampton Roads	Sewer	300, 362. 56	(L)	300, 362. 56	100%
Va. 44–CF–2	Hampton Roads	Sewer	40, 209. 15	(L)	50, 209. 15	100%
Va. 44–GF–3	Hampton Roads	Sewer	128, 596. 99	(L)	128, 596. 99	100%
Va. 44–CF–4	Hampton Roads	Sewer	137, 018. 55	(L)	137, 018. 55	100%

Note.
(A) Agreement terminated or abandoned.
(G) Grant.
(L) Loan.
(NS) Not started.

SAMPLE LETTER FORWARDING SECTION 511 DETERMINATION TO LESSEE, LOCAL TAXING AUTHORITY AND FHA

This letter refers to the taxation of the leasehold interest in the Wherry Housing project known as_____
(name of project)

located at the_____
(name of installation)

Section 511 of the Housing Act of 1956 (70 Stat. 1110; 42 U.S.C. 1594 note) provides in pertinent part as follows:

". . . no . . . taxes or assessments . . . on the interest of [lessees of Wherry Housing projects] shall exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to (1) any payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property, plus (2) such amount as may be appropriate for any expenditures made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal or any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority with respect to such other similar property . . ."

Accordingly, there is inclosed herewith my determination under the above statutory provision pursuant to the authority vested in me as the designee of the Secretary of Defense.

Sincerely yours,

1 Incl
Sample Determination

SAMPLE DETERMINATION UNDER SECTION 511 OF THE HOUSING ACT OF 1956

1. The undersigned, as duly authorized designee of the Secretary of Defense (app A, AR 210–47) _____ for the purposes of determining deductions on gross taxes and assessments imposed by the _____
(local taxing authority)
on the Wherry Housing project known as _____
(name of project)
pursuant to section 511 of the Housing Act of 1956 (70 Stat. 1110; 42 U.S.C. 1594 note), hereby determines that the sum of _____ was expended by the
(amount)
(Federal Government) (and/or) (the lessee) during the _____ tax year for the
(year)
(provision) (and) (maintenance) of (services) (and) (facilities) which are customarily provided by the _____ with respect to
(local taxing authority)
similar property.

2. The above total is comprised of the following specific expenditures:

[1. Here list the amounts expended for each facility and service included in the total; e.g.:

a. Schools _____ (Exh. A)
b. Libraries _____ (Exh. B)
c. Snow removal _____ (Exh. C)
d. Trash and garbage collection _____ (etc.)
e. Sewage _____
f. Fire protection _____
g. Police protection _____
h. Street lighting _____
i. Park and recreation facilities _____
j. Curbs and gutters _____
k. Sidewalks _____
l. Roads _____

2. If necessary, the figures may be broken down to show capital improvements and the annual amortization, separately from maintenance. This suggestion is particularly apt when there has been new school, road, sidewalk or curb and gutter construction.

3. To the extent possible, an exhibit justifying each figure of cost should be appended to the determination.]

3. The absence from this determination of a statement of other expenditures made by the Federal Government or by the lessee for the provision or maintenance of other services or facilities which are customarily provided by the local taxing authority with respect to such other similar property should not be construed to preclude their inclusion in future determinations, or in any modification of the present determination.

_____
(designee)
_____

____ Inclosures
Exh. A
Exh. B
Exh. C
etc.

WHERRY HOUSING TAX DEDUCTION ANALYSIS

The following instructions are provided as guidance in completing DA Form 2149–R, which will be reproduced locally on 13- by 8-inch paper when required:

ITEM 1—ARMY INSTALLATION OR ACTIVITY. Show name of installation or activity.

ITEM 2—NAME OF PROJECT. Self-explanatory.

ITEM 3—FHA PROJECT NO. Self-explanatory.

ITEM 4—NAME OF SPONSOR CORP. The current lessee of the project should be shown here.

ITEM 5—TAX DUE. The date on which tax payment is due, after which, penalties are added to the tax.

ITEM 6—TAX YEAR. The 12-month period covered by the determination being made.

ITEM 7—NO. OF UNITS. Show total number of family units in project. (Take from FHA Project Analysis Sheet.)

ITEM 8—NO. OF ROOMS. Show total number of rooms in project. (Take from FHA Project Analysis Sheet.)

ITEM 9a—AVG. RENT PER UNIT PER MONTH. Show current average unit rent being paid to management.

ITEM 9b—AVG. RENT PER ROOM PER MONTH. Item 9 multiplied by Item 7, divided by Item 8.

ITEM 9c—ESTIMATED REVISED RENT PER UNIT PER MONTH. This is the rent, if approved by FHA, which would reflect application of the tax deduction determination.

ITEM 9d—FHA TERC. This is the FHA's total estimate of replacement cost of the project, taken from FHA Project Analysis Sheet.

ITEM 9e—FHA TOTAL ESTIMATE OF REPLACEMENT COST PER UNIT. Item 9d divided by Item 7.

ITEM 9f—ARMY COMPARABLE VALUE. This figure should reflect the result of the review of the local assessor's records, and a field check of values of similar properties within the tax district involved. If in agreement with the assessor on valuation this will be shown by entering the same amount in this block as appears in Item 9g. Explanation of efforts to resolve any major difference in the valuations should be shown under COMMENTS.

ITEM 9g—ASSESSOR'S FULL VALUE. This is taken from local assessment records, and is the local assessor's opinion of the full value of the project.

ITEM 9h—ASSESSMENT RATIO. This is a decimal fraction (or percentage) which the assessor applies to his full value to arrive at the assessed value.

ITEM 9i—ASSESSED VALUE. Item 9g multiplied by Item 9h.

ITEM 9j—TAX RATE PER $100 OF ASSESSED VALUE. This is the *total* millage which shows on the tax bill. If rate has not yet been set for the tax year involved an estimated rate should be obtained from the local taxing authorities and used. In such case, so note fact under COMMENTS.

ITEM 10—CAPITAL IMPROVEMENTS.

ITEM 10a—PUBLIC SERVICES AND/OR FACILITIES. The

lists shown in this column are not necessarily complete. Add items as found necessary.

ITEM 10b—DOLLAR AMOUNT OF LOCAL BUDGET. The amount budgeted by the local tax unit for each Public Service or facility listed. Source of figures is local municipal, county, or school budgets. Avoid estimates where possible by obtaining data directly from local officials.

ITEM 10c—HEW PAYMENTS. These figures will be furnished by the Department of the Army as obtained from the Department of Health, Education, and Welfare for Public Law 815 and 874 contributions to the local schools.

ITEM 10d—OTHER FEDERAL PAYMENTS. See this regulation paragraph 8*a*(2)(*a*)*2* and 8*a*(2)(*b*)*2* and *3*. Furnish data when determination is made that Wherry project generated all or portion of Federal impact on local community's facility.

ITEM 10e—CAT I AND/OR CAT II. Indicate by these Roman numerals whether item is (I) direct U.S. Payments to local Public Authority or (II) expenditure by Federal Government or Lessee for the provision and/or maintenance of facilities and/or service.

ITEM 10f—ARMY AND/OR LESSEE EXPENDITURES. Show total dollar amount for each item. If none, so indicate.

ITEM 10g—DEDUCTIONS. This column should reflect the findings and judgment both as to the eligibility of the item as deductible, and the appropriateness of the amount to be deducted.

ITEM 10h—REMARKS. Indicate appropriate brief remarks as desired for each item. If more space is required use space at bottom of form in block entitled COMMENTS.

SUB-TOTALS. Show sub-totals for each column covering Capital Improvements items.

ITEM 11—MAINTENANCE AND OPERATION SUB-TOTALS. Show sub-totals for each column covering Maintenance and Operation items.

GRAND TOTALS. Show sums of sub-totals for Capital Improvements and Maintenance & Operations for each column.

ITEM 12—GROSS TAX. Item 9i times Item 9j.

ITEM 13—ARMY DEDUCTION. This is last item in column headed Deductions.

ITEM 14—NET TAX. Item 12 minus Item 13. Show $00.00 where Item 13 exceeds Item 12.

ITEM 15—MORTGAGOR LETTERS. Information on this item and items 16 to 19 can be entered after followup action has been taken in accordance with paragraph 16 of this regulation. The lessee of the project is the mortgagor. Insert date of mortgagor's letter (1) to taxing authority requesting it to reduce or eliminate the tax, and (2) to the mortgagee requesting it to reduce or eliminate its tax escrow demand, or withhold imposing an escrow.

ITEM 16—TAX AUTH. ACTION. Insert date the taxing authority agrees to reduce or eliminate the tax. If it refuses, this should be noted under COMMENTS.

ITEM 17—MORTGAGEE ACTION. Insert date the mortgagee requests FHA to approve tax escrow adjustment with a corresponding rent adjustment.

ITEM 19—DATE ADJUSTED RENTS BECOME EFFECTIVE. Insert date the sponsor places FHA-approved adjusted rents into effect in project.

WHERRY HOUSING TAX DEDUCTION ANALYSIS

For use of this form, see AR 210-47; the proponent agency is Office of the Chief of Engineers.

1. ARMY INSTALLATION OR ACTIVITY		2. NAME OF PROJECT		9. ITEM	AMOUNT
				a. Average Rent Per Unit Per Month	
				b. Average Rent Per Room Per Month	
				c. Estimated Revised Rent Per Unit Per Month	
3. FHA PROJECT NUMBER		4. NAME OF SPONSOR CORPORATION		d. FHA Total Estimate of Replacement Cost	
				e. FHA Total Estimate of Replacement Cost Per Unit	
				f. Army Comparable Value	
				g. Assessor's Full Value	
5. TAX DUE (Date)	6. TAX YEAR	7. NO. OF FAMILY UNITS	8. NO. OF ROOMS	h. Assessment Ratio	
				i. Assessed Value	
				j. Tax Rate Per $100 of Assessed Value	

10. CAPITAL IMPROVEMENTS

PUBLIC SERVICES AND/OR FACILITIES a	DOLLAR AMT OF LOCAL BUDGET b	HEW PAYMENTS c	OTHER FEDERAL PAYMENTS d	CAT I AND/OR CAT II e	ARMY AND/OR LESSEE EXP f	DEDUCTIONS g	REMARKS h
Schools							
Land for Schools							
Hospitals and Clinics							
Libraries							
Park and Recreation Facilities							
Sewerage Systems							
Water Supply Systems							
Streets							
Curbs and Gutters							
Sidewalks							
Fire Fighting Equipment							
Police Stations, etc.							
Gas Distribution Systems							
Finance Charges							
Street Lighting							
SUB-TOTALS							//////////////////////////////

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Figure D-1.

11.	MAINTENANCE AND OPERATIONS						
PUBLIC SERVICES AND/OR FACILITIES a	DOLLAR AMT OF LOCAL BUDGET b	HEW PAYMENTS c	OTHER FEDERAL PAYMENTS d	CAT I AND/OR CAT II e	ARMY AND/OR LESSEE EXP f	DEDUCTIONS g	REMARKS h
Schools							
Hospitals and Clinics							
Libraries							
Park and Recreation Facilities							
Sewerage Systems							
Water Supply Systems							
Streets							
Curbs and Gutters							
Sidewalks							
Fire Protection							
Street Lighting							
Gas Supply and Distribution							
Electric Supply and Distribution							
Garbage Collection							
Trash Collection							
Snow Removal							
Pest Control							
Fire Hydrants							
Police Protection							
SUB-TOTALS							//////////////////////////////
GRAND TOTALS							//////////////////////////////

12. GROSS TAX	13. ARMY DEDUCTIONS	14. NET TAX	15. MORTGAGOR LETTERS	16. TAX AUTH ACTION	17. MORTGAGEE ACTION	18. FHA ACTION	19. ADJUSTED RENTS EFFECTIVE

COMMENTS

Page 2

Figure D-1 —Continued