
IRS LTR: Extension Granted to Make Low-Income Housing Election.

The IRS granted an entity an extension to make an election under section 42(g)(3)(D) to treat all buildings in a low-income housing project as part of a single, multiple-building project.

Citations: LTR 201441002

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact: * * *, ID No. * * *
Telephone Number: * * *

Index Number: 42.00-00, 9100.00-00
Release Date: 10/10/2014
Date: June 5, 2014

Refer Reply To: CC:PSI:B5 – PLR-103340-14

LEGEND:

Taxpayer = * * *
Project = * * *
BINs = * * *
N = * * *
Agency = * * *

Dear * * *:

This letter responds to Taxpayer's authorized representative's letter dated January 1, 2014, and subsequent correspondence, requesting an extension of time pursuant to § 301.9100-1 of the Procedure and Administration Regulations to elect to treat all of the buildings in Project identified by BINs as part of a single, multiple-building project under § 42(g)(3)(D) of the Internal Revenue Code on Taxpayer's IRS Forms 8609, Low-Income Housing Credit Allocation and Certification.

According to information submitted, Taxpayer intended that Project consist of N buildings identified by BINs. Taxpayer, through inadvertence, failed to elect to treat all N buildings in Project identified by BINs for which Forms 8609 were issued by Agency as part of a single, multiple-building project under § 42(g)(3)(D).

Section 42(g)(3)(D) provides that a project will consist of only one building unless, prior to the end of the first calendar year in the project period (as defined in § 42(h)(1)(F)(ii)), each building that will comprise the project is identified in the form and the manner that the Secretary provides.

Section 42(l)(1) sets forth the certifications for the first year of the credit period regarding any

qualified low-income building that a taxpayer must certify to the Secretary (at such time and in such manner as the Secretary prescribes). Section 1.42-1(h) of the Income Tax Regulations requires that a building owner (i.e., taxpayer) must file a completed Form 8609 with the Service in accordance with the form instructions. The election to treat under § 42(g)(3)(D) a building as part of a multiple-building project is made on Part II of Form 8609 and requires the inclusion of an accompanying informational statement.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-1(b) defines the term "regulatory election" as including an election whose due date is prescribed by regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except E, G, H, and I. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3(a) will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith and that granting relief will not prejudice the interests of the government.

In the instant case, based solely on Taxpayer's facts submitted and its representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, Taxpayer is granted an extension of time to elect to treat under § 42(g)(3)(D) all N buildings in Project identified by BINs as part of a single, multiple-building project by filing within 120 days from the date of this letter amended Forms 8609, and accompanying information statement(s), that include this intended election. The amended Forms 8609 and statement(s) (along with a copy of this letter) are to be filed with the Philadelphia Service Center at the address provided for the Service Center in that form. A copy of this letter is enclosed for this purpose.

No opinion is expressed or implied regarding the application of any other provisions of the Code or regulations. Specifically, we express no opinion on whether the Forms 8609 for the N buildings in Project identified by BINs were timely or correctly filed, the effect of Taxpayer's election to treat under § 42(g)(3)(D) the N buildings as a single, multiple-building project for any closed year, or whether the N buildings in Project otherwise qualify for low-income housing tax credits under § 42.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: Christopher J. Wilson
Senior Counsel, Branch 5

Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure (2):
Copy of this letter
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