

which Forms 8609 were issued by Agency, consistent with Taxpayer's intent to treat these buildings as part of a single, multiple-building project under § 42(g)(3)(D). Taxpayer's intent is evidenced by contemporaneous documentation consistent with this intent.

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 301.9100-8(a)(2)(i)(A) of the Procedure and Administration Regulations provides that the election under § 42(g)(3)(D) must be made by the due date (taking into account any extensions of time) of the tax return for the first taxable year for which the election is effective.

Section 301.9100-8(b) provides that the election under § 42(g)(3)(D) generally must be made for the taxable year in which the building is placed in service, or the succeeding taxable year if the § 42(f)(1) election is made to defer the start of the credit period, and must be made in the certification required to be filed pursuant to § 42(l)(1) and (2).

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 under § 42(g)(3)(D) for a building 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 a 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 make the election under § 42(g)(3)(D) to treat all N buildings in Project for which Forms 8609 were issued by Agency and which are identified by BIN Numbers 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 (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 were timely or correctly filed, the effect of Taxpayer's election under § 42(g)(3)(D) for any closed year, or whether Project buildings 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 representative.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By: /s/ Christopher J. Wilson
CHRISTOPHER J. WILSON
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Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Copy of this letter
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