

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-128123-15
Date:
October 20, 2015

In Re:

LEGEND:

Taxpayer =

Project =

N =

BIN/Address =

Agency =

Dear :

This letter responds to Taxpayer's authorized representative's letter dated August 20, 2015, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to elect to identify all buildings in Project as part of a single, multiple building project under § 42(g)(3)(D) of the Internal Revenue Code.

Project consists of N buildings identified by BIN/Address. According to information submitted, Taxpayer, through inadvertence, failed to make an effective election for all N buildings in Project for 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).

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) requires that a building owner (i.e., taxpayer) must file a completed Form 8609 with the Internal Revenue Service in accordance with the form instructions. The election under

§ 42(g)(3)(D) to treat 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.

Section 301.9100-1(c) provides that 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 certain regulatory elections (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.

Section 301.9100-3(a) provides that applications for relief that fall within § 301.9100-3 will be granted when the taxpayer provides sufficient evidence to establish that the taxpayer acted reasonably and in good faith, and that granting such relief will not prejudice the interests of the Government. Section 301.9100-3(b) provides when a taxpayer is deemed to have acted reasonably and in good faith. Section 301.9100-3(c) provides when the interests of the Government are prejudiced. Section 301.9100-3(e) provides that the taxpayer must provide evidence that satisfies the requirements of § 301.9100-3(a) and (b).

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 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 were timely or correctly filed, the effect of Taxpayer’s election under § 42(g)(3)(D), or whether Project otherwise qualifies for the 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 Taxpayer's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By: _____
CHRISTOPHER J. WILSON
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Copy of this letter
Copy for section 6110 purposes

cc: