

**Internal Revenue Service**

Department of the Treasury  
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Person To Contact: \_\_\_\_\_, ID No.

Telephone Number:

In Re:

Refer Reply To:  
CC:PSI:B05  
PLR-117149-17  
Date:  
July 18, 2017

LEGEND

Taxpayer =

Year 1 =

BIN =

Address =

Dear \_\_\_\_\_ :

This letter responds to your authorized representative's letter dated May 10, 2017, submitted on behalf of Taxpayer, requesting an extension of time to make an election under § 42(g)(1) of the Internal Revenue Code (Code) pursuant to § 301.9100-1 of the Procedure and Administration Regulations.

According to the information submitted, Taxpayer owns a single-building project that was placed in service in Year 1. The building identification number assigned to the building is BIN. The building is located at Address. Taxpayer inadvertently failed to make a timely, correct election for the building under § 42(g)(1), consistent with Taxpayer's intent, as evidenced by Taxpayer's contemporaneous documentation.

Section 42(g)(1) defines the term "qualified low-income housing project" as any project for residential rental property if the project meets the requirements of § 42(g)(1)(A) or (B), whichever is elected by the taxpayer. The project meets the requirements of § 42(g)(1)(A) if 20 percent or more of the residential rental units in the project are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income. The project meets the requirements of § 42(g)(1)(B) if 40

percent or more of the residential rental units in the project are both rent-restricted and occupied by individuals whose income is 60 percent or less of area median gross income.

Section 301.9100-7T(b) of the temporary Procedure and Administration Regulations provides that for elections made under the Tax Reform Act of 1986, the election under § 42(g)(1) must be made for the taxable year in which the project is placed in service and is to be made in the certification required to be filed pursuant to § 42(l)(1). Section 301.9100-7T(a)(4)(i) provides that the election under § 42(g)(1) is irrevocable.

Section 42(l)(1)(D) provides that following the close of the first taxable year in the credit period for any qualified low-income building, the taxpayer is to certify to the Secretary (at the time and in the form and in the manner as the Secretary prescribes) the election made under § 42(g) for the qualified low-income housing project of which the building is a part. In the case of a failure to make the certification required by the preceding sentence on the date prescribed for it, unless it is shown that the failure is due to reasonable cause and not to willful neglect, no credit is to be allowable by reason of § 42(a) for the building for any taxable year ending before the certification is made.

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 the facts submitted and the 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)(1) for the building identified by BIN by filing within 120 days from the date of this

letter an amended Form 8609 that includes the intended election. The amended Form 8609 (along with a copy of this letter) is 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 Form 8609 for the building was timely or correctly filed, the effect of Taxpayer's election under § 42(g)(1) for any closed year, or whether the building otherwise qualifies for low-income housing tax credit 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 and Special Industries)

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

Enclosures (2):      Copy of this letter  
                             Copy for section 6110 purposes

cc: