

**Internal Revenue Service**

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**Department of the Treasury**

Washington, D.C. 20044

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:5 — PLR-111456-03

Date:

June 20, 2003

**LEGEND**

Taxpayer =

State =

City =

Project =

University =

b =

Date 1 =

Dear :

This letter responds to your letter dated December 20, 2002, and subsequent correspondence, submitted on behalf of Taxpayer, requesting a private letter ruling under § 42 of the Internal Revenue Code.

Taxpayer represents the following facts.

**FACTS**

Taxpayer is a State limited partnership formed in Date 1 to acquire, rehabilitate, and operate b units of affordable housing located in City, known as the Project. All of the residential units in the Project must be rented to individuals who meet the income limitation applicable under § 42(g)(1) for purposes of the § 42 low-income housing credit.

At the time of the letter ruling request, one of the Project's tenants (Tenant) was pursuing a law degree at University on a full-time basis. Tenant is 50 years old and is single, has no children, and is not a dependent on another person's federal income tax return within the meaning of § 152. Tenant does not fall under any of the student exceptions provided under § 42(i)(3)(D).

### **RULING REQUESTED**

Taxpayer requests a ruling that Tenant's unit will be treated as a low-income unit under § 42(i)(3)(A).

### **LAW AND ANALYSIS**

Section 38(a) provides for a general business credit against tax that includes the amount of the current year business credit. Section 38(b)(5) provides that the amount of the current year business credit includes the low-income housing credit determined under § 42(a).

Section 42(a) provides that, for purposes of section 38, the amount of the low-income housing credit determined under § 42 for any taxable year in a 10-year credit period shall be an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.

Section 42(i)(3)(A) provides that the term "low-income unit" means any unit in a building if the unit is rent-restricted (as defined in § 42(g)(2)), and the individuals occupying the unit meet the income limitation applicable under § 42(g)(1) to the project for which the building is a part.

Section 42(i)(3)(D) provides that a unit will not fail to be treated as a low-income unit merely because it is occupied (i) by an individual who is (I) a student and receiving assistance under title IV of the Social Security Act, or (II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or (ii) entirely by full-time students if the students are (I) single parents and their children and the parents and children are not dependents (as defined in § 152) of another individual, or (II) married and file a joint return.

In the instant case, Tenant is a 50-year old, single individual pursuing a law degree on a full-time basis. Tenant is income-qualified under § 42(g)(1) and not a dependent within the meaning of § 152. Tenant does not fall within the specific exceptions for students under § 42(i)(3)(D). Nevertheless, based solely on the above facts and representations, we believe Tenant's unit is a low-income unit for purposes of § 42 provided the unit otherwise qualifies as a low-income unit under § 42(i)(3)(A).

No opinion is expressed or implied regarding the application of any other provision of the Code or regulations. Specifically, no opinion is expressed or implied regarding whether the Project qualifies for the low-income housing credit under § 42.

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

In accordance with the power of attorney filed with this request, a copy of this letter is being sent to Taxpayer and Taxpayer's first authorized representative.

Sincerely,

Susan J. Reaman

Susan J. Reaman  
Chief, Branch 5  
Office of Associate Chief Counsel  
(Passthroughs and Special  
Industries)

Enclosure:

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