



OFFICE OF
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Dear

Thank you for your July 31, 2003, letter to Mark W. Everson, Commissioner, Internal Revenue. You urged us to issue guidance that would clarify the treatment of project rental assistance contract (PRAC) payments under section 202 of the National Housing Act when used with projects receiving the low-income housing tax credit under section 42 of the Internal Revenue Code.

Specifically, the issue is whether PRAC payments may be considered rental assistance payments similar to rental assistance payments under section 8 of the United States Housing Act of 1937, rather than federal grant payments under section 42(d)(5) of the Code. If so, then no reduction in the eligible basis of the building (the basis upon which credits under section 42 are determined) is required. Otherwise, section 42(d)(5) requires a reduction in the eligible basis of the building equal to the federally funded portion of the grant.

As your letter points out, Treasury regulation section 1.42-16 provides guidance relating to the application of section 42(d)(5) of the Code to certain rental assistance programs. Specifically, section 1.42-16(b)(3) of the regulations provides that a federal rental assistance payment made to a building owner on behalf of a tenant is not a grant made with respect to a building or its operation if the payment is made under a program or method of rental assistance as the Treasury Secretary may designate through the Federal Register or in the Internal Revenue Bulletin.

The Section 202 PRAC program is among those programs we are currently reviewing in the context of section 42(d)(5) applicability. We recognize the importance of this program and will take your views into consideration during our ongoing study of this program.

If you have any questions or wish to discuss this matter, please call me at

Sincerely,
Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special
Industries)