

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202251006**

Release Date: 12/23/2022

Index Number: 42.00-00, 9100.00-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-108105-22

Date:
September 28, 2022

Re:

LEGEND

Taxpayer =

State =

Tax Advisor =

Property =

BIN =

Year =

Dear :

This letter responds to Taxpayer's authorized representative's letter, dated March 3, 2022, and subsequent correspondence submitted on behalf of Taxpayer, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file an amended Form 8609, Low-Income Housing Credit Allocation and Certification, with respect to the election under § 42(f)(1) of the Internal Revenue Code made for a certain building intended to be a low-income housing project under § 42.

According to the information submitted and representations made, Taxpayer, a partnership for federal income tax purposes, acquired and rehabilitated the Property in a manner to provide low-income residential rental housing. Taxpayer placed the building identified by BIN in service in Year. Taxpayer retained the services of Tax Advisor to provide federal and state compliance services for the taxable period ended December 31, Year and relied on the advice of Tax Advisor to prepare Form 8609. Based on the information submitted, Taxpayer inadvertently failed to check the box on line 10a to begin the credit period the first year after the building identified by BIN is placed in service.

Section 42(f)(1) defines the credit period of any building as the period of 10 taxable years beginning with the taxable year in which the building is placed in service, or at the election of the taxpayer, the succeeding taxable year, but in either case only if the building is a qualified low-income building at the close of the first year of such period.

Section 301.9100-8(b) provides that the election under § 42(f)(1) 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 301.9100-8(a)(4)(i) provides that the election under § 42(f)(1) is irrevocable.

Specifically, the election under § 42(f)(1) is made pursuant to the certification requirement of § 42(l)(1)(E), which provides that following the close of the first taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes) such other information as the Secretary may require.

Section 1.42-1(h) of the Income Tax Regulations provides that a completed Form 8609 must be filed by the building owner with the IRS. The requirements for completing and filing Form 8609 are addressed in the instructions to the form.

The instructions to Form 8609 provide that the building owner must make a one-time submission of Form 8609 to the Low-Income Housing Credit (LIHC) Unit at the IRS Philadelphia campus. The building owner must file the original of the Form 8609 with the LIHC Unit no later than the due date (including extensions) of its first tax return with which it is filing Form 8609-A, Annual Statement for Low-Income Housing Credit.

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 subtitles 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 (including affidavits described in § 301.9100-3(e)) to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

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 file an amended Form 8609 for the building identified by BIN for the sole purpose of checking the box on line 10a of the form to begin the credit period the first year after the building is placed in service. The amended Form 8609 must be filed within 120 days from the date of this letter. The amended Form 8609 (along with a copy of this letter) must be filed with the LIHC Unit at the following address provided in the instructions to Form 8609:

Department of the Treasury
Internal Revenue Service Center
Philadelphia, PA 19255-0549

No opinion is expressed or implied regarding the application of any other provisions of the Code or regulations. In particular, we express no opinion on whether the building identified by BIN is a qualified low-income housing project or whether the building identified by BIN otherwise 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.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by

an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

/s/

By:

JAMES A. HOLMES
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosure:
Copy for § 6110 purposes

cc: