

IRS Information Letter: INFO 2001-0292 - IRC Section 42

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Dear :

Thank you for your letter of September 27, to Mr. Paul Kugler, Associate Chief Counsel (PSI), on behalf of your client, , concerning certain procedural questions governing binding commitments under § 42 of the Internal Revenue Code. Because our office has direct responsibility for issues under § 42 of the Code, your letter has been forwarded to us for response.

Section 42(h)(1)(C) provides that if there is a binding commitment (made not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later year, then the general rule of § 42(h)(1)(B) (requiring that an allocation be made before the close of the year in which a building is placed in service) does not apply. Accordingly, a binding commitment is not an allocating document that reduces the state's housing credit ceiling (as defined under § 42(h)(3)(C)) for the year the binding commitment is made. Rather, the state's housing credit ceiling is reduced for the year the allocation is made.

Although the binding commitments made pursuant to carryover resolutions to allocate credit were made in calendar year 2000, you state that the allocations to some of these projects were not made in calendar year 2000. Treating any of these unallocated amounts on the Form 8610, Annual Low-Income Housing Credit Agencies Report, filed for calendar year 2000 as if they had been allocated in calendar year 2000 would be improper. To the extent this was done, the Form 8610 would have to be amended by following the specific instructions on Form 8610 for submitting an amended Form 8610 and ensuring that only those allocations made in calendar year 2000 are reflected on the amended form as being allocated for that year.

Thank you for writing. Although this is not a ruling, I hope this clarification has been of assistance to you.

Sincerely yours,

SUSAN REAMAN
Chief, Branch 5
Office of the Associate

Chief Counsel
(Passthroughs and Special Industries)