

Part III - Administrative, Procedural, and Miscellaneous

Notice 2022-52

SECTION I. PURPOSE

This notice modifies and amplifies sections IV.C, IV.D, IV.F, and V.B of Notice 2022-05, 2022–5 I.R.B. 457, by providing additional temporary relief from certain requirements under § 42 of the Internal Revenue Code (Code) for qualified low-income housing projects. The Internal Revenue Service and the Department of the Treasury have received numerous inquiries related to unavoidable labor and supply-chain disruptions delaying the construction, rehabilitation, and restoration of properties throughout the United States. In view of the unique circumstances resulting from the labor and supply-chain disruptions and their effect on the existing relief provided in Notice 2022-05, it is appropriate to provide the additional temporary relief in this notice.

SECTION II. EXTENSION OF CERTAIN TEMPORARY RELIEF IN NOTICE 2022-05

.01 Extension of certain placed-in-service deadlines. This notice modifies and amplifies section IV.C of Notice 2022-05 by designating the four bullets under section IV.C of Notice 2022-05 as section IV.C.(1) through (4), revising section IV.C.(2) and (4), and adding new section IV.C.(5) to extend placed-in-service deadlines for projects receiving allocations in 2019, 2020, and 2021. As so modified and amplified, section IV.C of Notice 2022-05 now reads:

C. PLACED-IN-SERVICE DEADLINE

(1) For purposes of § 42(h)(1)(E)(i), if the original deadline for a low-income building to be placed in service is the close of calendar year 2020, the new deadline is the close of calendar year 2022 (that is, December 31, 2022).

(2) If the original placed-in-service deadline is the close of calendar year 2021 and the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was before April 1, 2020, the new placed-in-service deadline is the close of calendar year 2023 (that is, December 31, 2023).

(3) If the original placed-in-service deadline is the close of calendar year 2021 and the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was on or after April 1, 2020, and on or before December 31, 2020, then the new placed-in-service deadline is the close of calendar year 2023 (that is, December 31, 2023).

(4) If the original placed-in-service deadline is the close of calendar year 2022 (and thus the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was in 2021), then the new placed-in-service deadline is the close of calendar year 2024 (that is, December 31, 2024).

(5) If the original placed-in-service deadline is the close of calendar year 2023 (and thus the original deadline for the 10-percent test in § 42(h)(1)(E)(ii) was in 2022), then the new placed-in-service deadline is the close of calendar year 2024 (that is, December 31, 2024).

.02 Extension of Agency-set reasonable restoration periods. This notice modifies and amplifies section IV.D of Notice 2022-05 by permitting a twenty-four-month extension of reasonable restoration periods set by an Agency. As so modified and amplified, section IV.D of Notice 2022-05 now reads:

D. REASONABLE PERIOD FOR RESTORATION OR REPLACEMENT IN THE EVENT OF CASUALTY LOSS

For purposes of § 42(j)(4)(E) both in the case of a casualty loss not due to a pre-COVID-19-pandemic Major Disaster and in situations governed by section 8.02 of Rev. Proc. 2014-49 in the case of a casualty loss due to a pre-COVID-19-pandemic Major Disaster, if a low-income building's qualified basis is reduced by reason of the casualty loss and the reasonable period to restore the loss by reconstruction or replacement that was originally set by the Agency (original Reasonable Restoration Period) ends on or after April 1, 2020, then the last day of the Reasonable Restoration Period is postponed by twenty-four months but not beyond December 31, 2023. Notwithstanding the preceding sentence, the Agency may require a shorter extension, or no extension at all.

For purposes of determining the credit amount allowable under § 42(a) in the case of a credit year that ends on or after April 1, 2020, and not later than the end of the Reasonable Restoration Period (taking into account any extension under the preceding paragraph), if the Owner restores the building by the end of that extended Reasonable Restoration Period, then for taxable years ending after the first day of the casualty and before the completion of the restoration, the Owner must use the building's qualified basis at the end of the taxable year immediately preceding the first day of the casualty as the building's qualified basis for that credit year.

.03 Extension of Agency-set correction periods. This notice modifies and amplifies section IV.F of Notice 2022-05 by extending the correction period set by an Agency by twelve months. As so modified and amplified, section IV.F of Notice 2022-05 now reads:

F. CORRECTION PERIOD

For purposes of § 1.42-5, if a correction period that was set by the Agency ends on or after April 1, 2020, and before December 31, 2022, then the end of the correction period (including as already extended, if applicable) is extended by a year, but not beyond December 31, 2023. If the correction period originally set by the Agency ends during 2023, the end of the period is extended to December 31, 2023. Notwithstanding the preceding sentences, the Agency may require a shorter extension, or no extension at all.

.04 Extension of waivers of compliance monitoring physical inspections. This notice modifies and amplifies section V.B of Notice 2022-05 by extending the temporary waiver for compliance monitoring physical inspections. As so modified and amplified, section V.B of Notice 2022-05 now reads:

B. COMPLIANCE-MONITORING—PHYSICAL INSPECTIONS

For purposes of § 1.42-5, an Agency is not required to conduct compliance-monitoring physical inspections in the period beginning on April 1, 2020, and ending on June 30, 2022. Because of high State-to-State and intra-State variability of COVID-19 transmission, an Agency, consistent with a general or specific health and safety recommendation of a State or local public health authority, may extend the waiver in the preceding sentence if the level of transmission makes such an extension appropriate. Depending on varying rates of transmission, the extension may be State-wide, may be limited to specific locales, or may be on a project-by-project basis. No such extension may go beyond December 31, 2023. The Agency must resume compliance-monitoring reviews as due under § 1.42-5 once the waiver expires.

For purposes of § 1.42-5(c)(2)(iii)(C)(3), between April 1, 2020, and the end of 2022 only, when the Agency gives an Owner reasonable notice that it will physically inspect not-yet-identified low-income units, it may treat reasonable notice as being up to 30 days. Beginning on January 1, 2023, for this purpose reasonable notice again is generally no more than 15 days

SECTION III. EFFECT ON OTHER DOCUMENTS

Notice 2022-05 is modified and amplified.

SECTION IV. DRAFTING INFORMATION

The principal author of this notice is Dillon Taylor, Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this notice, please contact Dillon Taylor at (202) 317-4137 (not a toll-free call).