

Internal Revenue Service

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In Re:

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-135053-12
Date:
December 04, 2012

Legend:

Taxpayer =

Agency =

State =

City =

Original Project Site =

New Project Site =

Official Mailing Address =

State Entity =

Department =

date a =

date b =

date c =

date e =

date f =

date g =

date h =

year 1 =

a =

b =

c =

Dear :

This letter responds to a letter dated August 10, 2012, and subsequent correspondence, submitted on behalf of Taxpayer and Agency by their authorized representatives requesting permission under § 42(n)(4) of the Internal Revenue Code and § 1.42-13(b) of the Income Tax Regulations to correct an administrative error or omission relating to an allocation of low income housing credit dollar amounts.

Taxpayer was formed to develop and operate a residential rental project consisting of a buildings each containing b units in City (the "Project"). On date a, Taxpayer submitted an application to Agency for a reservation of year 1 credits under § 42(b)(2) in the amount of \$c. The reservation identified the proposed site plan location at Original Project Site. On date b, Agency issued a reservation letter to the Project reserving year 1 credits in the amount \$c. On date c, Agency and Taxpayer entered into a Federal Low-Income Tax Credit Reservation Agreement reserving year 1 credits in the amount of \$c for the Project to be located at Original Project Site. On date h, Agency and Taxpayer executed a Low-Income Housing Credit Carryover Allocation Agreement for the Project (the Carryover Allocation), identifying the address as Original Project Site.

As a necessary component of its expansion plan to build facilities across State, State Entity, an entity unrelated to Taxpayer, wanted to locate new facilities on Original Project Site. In support of State Entity's expansion plan, the Department of City and mayor of City expressed a strong desire that the Project be re-located. On date e, Agency informed Taxpayer that it approved the Project's re-location to New Project Site. From date f through date g, Taxpayer proceeded to develop the Project at New Project Site. During this time, no revision to the date h Carryover Allocation was made to reflect Project's new location. Agency and Taxpayer stipulate that the mailing address of New Project Site is Official Mailing Address.

Taxpayer and Agency request a private letter ruling that the Agency may administratively correct the Carryover Allocation document to change the location of the Project from Original Project Site to New Project Site under § 1.42-13 of the income tax regulations.

Under § 42(n)(4), state and local housing credit agencies may correct administrative errors and omissions concerning allocations and recordkeeping within a reasonable period of time after their discovery. Section 1.42-13(b)(2) defines an administrative error or omission as a mistake that results in a document that inaccurately reflects the intent of the agency at the time the document is originally completed or, if the mistake affects a taxpayer, a document that inaccurately reflects the intent of the agency and the affected taxpayer at the time the document is originally completed. Section 1.42-13(b)(1), however, provides that an administrative error or omission does not include a misinterpretation of the applicable rules and regulations under § 42.

Under § 1.42-13(b)(3)(iii)(A), a state agency must obtain the Secretary's prior approval to correct an administrative error or omission if the correction is not made before the close of the calendar year of the error or omission and the correction affects the determination of any component of the State housing credit ceiling under § 42(h)(3)(C).

Agency and Taxpayer intended to execute a Carryover Allocation to correctly identify the location of the Project. An administrative error or omission occurred because the Carryover Allocation incorrectly identified the Project location at Original Project Site and not New Project Site. This error or omission did not result from a misinterpretation of the applicable rules and regulations under § 42. Thus, a correctable administrative error or omission occurred in this situation.

Based solely on the representations and the relevant law and regulations set forth above, we conclude as follows:

1. An administrative error or omission occurred because the Carryover Allocation incorrectly identified the location of the Project.
2. After Agency and Taxpayer discovered the administrative error or omission, Agency and Taxpayer attempted to correct the administrative error or omission within a reasonable period of time.

To correct this administrative error or omission, Agency must amend the Carryover Allocation, where appropriate, to change the location of the Project from Original Project Site to New Project Site. For this purpose, the address stated for New Project Site or Official Mailing Address may be used to identify the Project. Agency

should also amend the Carryover Allocation to conform any information contained therein to make it consistent with the location and address change.

No opinion is expressed or implied regarding the application of any other provisions of the Code or regulations. Specifically, we express no opinion on whether the Project qualifies for low-income housing tax credits under § 42.

This ruling is directed only to the Agency and Taxpayer. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

The ruling(s) contained in this letter are based upon information and representations submitted by Agency and Taxpayer, accompanied by penalty of perjury statements executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for ruling, it is subject to verification on examination.

In accordance with the Powers of Attorney on file with this office, a copy of this letter is being sent to Agency and Taxpayer's authorized representative.

Sincerely,

Christopher J. Wilson
Senior Counsel, Branch 5
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes