

Internal Revenue Service

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Date:
March 26, 2015

In re:

Legend

Taxpayer =

Agency =

City =

BINs =

BIN 1 =

BIN 2 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Date =

a =

b =

c =

d =

Dear :

This letter responds to a letter dated September 12, 2014, and subsequent correspondence, submitted on behalf of Taxpayer by its authorized representative and Agency, 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 the allocation of low-income housing credit dollar amounts.

Taxpayer represents that it was formed, in part, for the purpose of constructing, renovating, rehabilitating, leasing, and operating an apartment complex located in City. The apartment complex consists of buildings identified by BINs. Taxpayer received from Agency project-based allocations of low-income housing tax credits under § 42(h)(1)(F) for buildings in the apartment complex in Year 1 and in Year 2. Agency provided a supplemental allocation for one building in the apartment complex in Year 3. All the buildings in the apartment complex identified by BINs were placed in service and began their credit period in Year 3. Taxpayer represents that it presently owns and has continuously owned all the buildings in the apartment complex identified by BINs from the beginning of each building's credit period. Taxpayer also represents that when completing the Forms 8609, Low-Income Housing Credit Allocation and Certification, for the buildings identified by BINs, the applicable fraction for the building identified by BIN 1 and the application fraction for the building identified by BIN 2 were erroneously switched. This resulted in an incorrect allowable credit amount on line 1b and maximum qualified basis amount on line 3a of the Forms 8609 issued to the buildings identified by BIN 1 and BIN 2. Taxpayer further represents that the administrative error was first discovered when the Taxpayer was preparing its Year 4 federal tax return and that the request to correct the administrative error is being made in a reasonable period of time.

Section 42(n)(4) provides the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section including regulations providing the opportunity for housing credit agencies to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period

after their discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.

Section 1.42-13(b)(1) provides that an Agency may correct an administrative error or omission with respect to allocations and recordkeeping, as described in § 1.42-13(b)(2), within a reasonable period after the Agency discovers the administrative error or omission. Whether a correction is made within a reasonable period depends on the facts and circumstances of each situation. Section 1.42-13(b)(2) provides that an administrative error or omission is 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.

Under § 1.42-13(b)(3)(iii), a state agency must obtain the Secretary's approval to correct an administrative error or omission, as described in § 1.42-13(b)(2), if the correction is not made before the close of the calendar year of the error or omission and the correction—(A) is a numerical change to the housing credit dollar amount allocated for the building or project; (B) affects the determination of any component of the State's housing credit ceiling under § 42(h)(3)(C); or (C) affects the State's unused housing credit carryover that is assigned to the Secretary under § 42(h)(3)(D).

Based solely on the representations and the relevant law and regulations set forth above, we conclude that an administrative error occurred and that this error resulted in documents that inaccurately reflect the intent of the Agency and the Taxpayer at the time the documents were originally completed. The correction was not made before the close of the calendar year of the error and the correction results in a numerical change to the housing credit dollar amount allocated to the two buildings identified by BIN 1 and BIN 2. We further conclude that the request to correct the administrative error was made within a reasonable period of time after the error was discovered.

We approve of Agency and Taxpayer correcting this administrative error.

To correct this administrative error, Agency should amend the Form 8609 for the building identified by BIN 1 so that the amount on line 1b of that form is \$a, and the amount on line 3a of that form is \$b. Agency should also amend the Form 8609 for the building identified by BIN 2 so that the amount on line 1b of that form is \$c, and the amount on line 3a of that form is \$d. When making the corrections Agency should check the "Amended Form" box on the Forms 8609 for both buildings and indicate (in the margin of the forms) that it is making the corrections under section 1.42-13(b).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express no opinion on whether any of the Forms 8609 issued for the buildings identified by BINs were timely or correctly filed, reflect the correct applicable percentage, or whether the buildings identified by BINs otherwise qualify for credit 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 rulings contained in this letter are based upon information and representations submitted by Agency and Taxpayer and accompanied by penalty of perjury statements executed by the appropriate parties. 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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to Taxpayer's authorized representatives.

Sincerely,

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

Enclosure (2)

Copy of this letter
Copy for § 6110 purposes