

REVENUE RULE 93-18

1993-1 C.B. 3, 1993-10 I.R.B. 4.

Internal Revenue Service
Revenue Ruling

LOW-INCOME HOUSING CREDIT; STATE HOUSING CREDIT CEILING

Published: February 18, 1993

§ 42.- Low-Income Housing Credit

Low-income housing credit; state housing credit ceiling. The Service has ruled that a state may allocate in 1993 an amount equal to the sum of the population and returned credit components of its 1992 state housing credit ceiling, reduced by the aggregate housing credit dollar amount allocated for calendar year 1992.

ISSUE

If a state does not allocate by June 30, 1992, the full amount of credits comprising the population component of its 1992 state housing credit ceiling under § 42(h)(3)(C)(i) of the Internal Revenue Code, may the state allocate any portion of the unused population component in 1993?

FACTS

Situation 1. For calendar year 1992, state A has available for allocation a \$10 million state housing credit ceiling consisting of the following components: (1) \$7 million of population component credits under § 42(h)(3)(C)(i) of the Code; (2) \$2 million of 1991 unused state housing credit ceiling under § 42(h)(3)(C)(ii); and (3) \$1 million of credits returned during 1992 under § 42(h)(3)(C)(iii). Agency X is the designated housing credit agency authorized to allocate low-income housing credits in state A. By June 30, 1992, Agency X allocates \$5 million of population component credits, and by December 31, 1992, Agency X allocates an additional \$2 million of credits from the other components of the state housing credit ceiling.

Situation 2. For calendar year 1992, state B has available for allocation a \$10 million state housing credit ceiling consisting of the same components as in Situation 1. Agency Y is the designated housing credit agency authorized to allocate low-income housing credits in state B. By June 30, 1992, however, Agency Y allocates \$6 million of population component credits, and by December 31, 1992, Agency y allocates an additional \$3 million of credits from the other components of the state housing credit ceiling.

LAW AND ANALYSIS

§ 42 of the Code provides a tax credit for investment in qualified low- income buildings placed in service after December 31, 1986. In general, the credit is allowable only if the owner of a

qualified low-income building receives a housing credit allocation from the state or local housing credit agency (Agency) in whose jurisdiction the building is located. The housing credit dollar amount that an Agency may allocate in any calendar year is limited to its portion of the state housing credit ceiling for the calendar year.

Under § 42(h)(3)(C) of the Code, the state housing credit ceiling applicable to any state for any calendar year is equal to the sum of the following components: (i) \$1.25 Multiplied by the state population (the population component); (ii) the unused state housing credit ceiling (if any) of the state for the preceding calendar year (the unused carryforward component); (iii) the amount of state housing credit ceiling returned in the calendar year (the returned credit component); plus (iv) the amount, if any, allocated to the state by the Secretary under § 42(h)(3)(D) from a "national pool" of unused credits.

§ 42(o)(1)(A) of the Code provides that the population component of the state housing credit ceiling shall not apply to any amount allocated after June 30, 1992. However, § 42(o)(1)(A) does not amend the manner of calculating the unused carryforward component under § 42(h)(3)(C)(ii) or the unused housing credit carryover of a state under § 42(h)(3)(D).

Therefore, for any calendar year, the unused state housing credit ceiling under § 42(h)(3)(C)(ii) of the Code is the excess (if any) of the sum of the population component and the returned credit component, over the aggregate housing credit dollar amount allocated for the year. The unused state housing credit ceiling for any calendar year is carried over to the succeeding calendar year and becomes the unused carryforward component of the succeeding year's state housing credit ceiling. If any portion of the unused carryforward component of the succeeding year's state housing credit ceiling remains unallocated as of the close of the calendar year, that amount is assigned to the Secretary under § 42(h)(3)(D) as an unused housing credit carryover of the state that becomes part of a national pool of unused credit authority (the National Pool) and is available for allocation among qualified states the following calendar year.

Specifically, § 42(h)(3)(D)(ii) of the Code provides that for any calendar year, the unused housing credit carryover of a state that is assigned to the Secretary is the excess (if any) of the unused carryforward component of the state housing credit ceiling for the calendar year over the excess (if any) of: (I) the aggregate housing credit dollar amount allocated for the year, over (II) the sum of the population and the returned credit components of the state housing credit ceiling for the year.

In Situation 1, state A will have available for allocation in 1993 the unused state housing credit ceiling for 1992 determined under § 42(h)(3)(C)(ii) of the Code. This amount is the excess of the sum of the 1992 population component of \$7 million and the returned credit component of \$1 million (or \$8 million), over the aggregate housing credit dollar amount allocated for 1992 of \$7 million. Therefore, the unused state housing credit ceiling for 1992 that is available to state A for allocation in 1993 is \$1 million of credits (\$8 million minus \$7 million equals \$1 million).

The 1992 unused housing credit carryover of state & that is assigned to the Secretary under § 42(h)(3)(D) of the Code is the excess of the unused carryforward component of \$2 million under § 42(h)(3)(C)(ii), over the excess (if any) of- (I) the aggregate housing credit dollar amount

allocated for 1992 of \$7 million, over (II) the sum of the 1992 population component of \$7 million and the returned credit component of \$1 million. Because the aggregate amount allocated for 1992 (\$7 million) does not exceed the sum of the population and the returned credit components (\$8 million), the entire \$2 million of unused carryforward component is assigned to the Secretary for inclusion in the 1993 National Pool.

In Situation 2, because the sum of the 1992 population component of \$7 million and the returned credit component of \$1 million (or \$8 million) does not exceed the aggregate housing credit dollar amount allocated for 1992 of \$9 million, state B will not have available for allocation in 1993 any unused state housing credit ceiling for 1992 determined under § 42(h)(3)(C)(ii) of the Code.

The 1992 unused housing credit carryover of state D that is assigned to the Secretary under § 42(h)(3)(D) of the Code is the excess of the unused carryforward component of \$2 million under § 42(h)(3)(C)(ii), over the excess of- (I) the aggregate housing credit dollar amount allocated for 1992 of \$9 million, over (ii) the sum of the 1992 population component of \$7 million and the returned credit component of \$1 million.

Therefore, \$1 million of credits (\$2 million minus [the excess of \$9 million minus 8 million]) are assigned to the Secretary for inclusion in the 1993 National Pool.

HOLDING

If a state does not allocate by June 30, 1992, the full amount of credits comprising the population component of its 1992 state housing credit ceiling, the state may allocate in 1993 an amount equal to the sum of the population and returned credit components of its 1992 state housing credit ceiling, reduced by the aggregate housing credit dollar amount allocated for calendar year 1992.

DRAFTING INFORMATION

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Rev. Rul. 93-18, 1993-1 C.B. 3, 1993-10 I.R.B. 4.