Internal Revenue Service

Index No.: 42.14-01

Department of the Treasury

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Refer Reply To:
CC:DOM:P&SI:5 — PLR-111142-99
Date:
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Legend:

Partnership =

State =

Project =

City =

Agency =

a =

b =

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g =

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Dear

This letter responds to your letter dated June 16, 1999, submitted on behalf of Agency and Partnership, requesting a private letter ruling under § 42(n)(4) of the Internal Revenue Code and § 1.42-13(b) of the Income Tax Regulations to correct an administrative error in an allocation of the low-income housing tax credit dollar amounts.

Agency and Partnership represent that the facts are as follows:

FACTS:

Partnership is a State limited partnership that was formed to develop and operate the Project, a low-income housing apartment complex consisting of a residential buildings and b office/multi-purpose building located in City.

In c, the Project received a reservation of c low-income housing tax credits in the amount of $d from Agency. Agency issued a carryover allocation in the amount of $d to the Project on e. The Forms 8609 have not been issued by Agency for the Project.

At the time of the initial application for low-income housing tax credits, the site plans represented a existing residential buildings and the addition of b office/multi-purpose building. However, an administrative error took place within the initial tax credit application. It showed f existing residential buildings instead of a existing residential buildings and b office/multi-purpose building. The intent of Partnership was to submit an accurate tax credit application; however, an administrative error was made.

Agency assigned building identification numbers (BINs) as part of the c carryover allocation based on the number of buildings reflected in the original tax credit application. The carryover allocation shows f BINs for the Project, and it should have contained a BINs for the Project. This administrative error was not noticed by Agency or Partnership's managing general partner until the rehabilitation cost certification had been completed in g.

In connection with the above statement of facts, Agency represents that: (1) it intended to make a project-based allocation to the Project pursuant to § 42(h)(1)(F); (2) the number of buildings in the Project was not material to the carryover allocation for the Project; and (3) the fact that the Project had a existing residential buildings rather than f would not have affected (a) the amount of low-income housing tax credit allocated to the Project, (b) the ranking of the Project in Agency's c allocation round, or (c) any other aspect of the carryover allocation for the Project.

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RULING REQUESTED:

Agency and Partnership request the Internal Revenue Service to rule that Agency may amend the c carryover allocation to include a BIN for the b additional residential building in the Project and allocate the appropriate amount of low-income housing tax credit to each of the a existing residential buildings in the Project, not exceeding $d for the entire Project. As required under § 1.42-13(b)(3)(v), Agency and Partnership hereby agree to such conditions as the Secretary considers appropriate if the above ruling request is granted.

LAW AND ANALYSIS:

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.

In the present case, Partnership committed an administrative error when the application for low-income housing tax credits referenced f buildings when the actual number of residential buildings was a. This error was not a misinterpretation of the applicable rules and regulations under § 42. However, as a result of this error, the c carryover allocation did not accurately reflect the intent of Agency and Partnership at the time the document was executed. The intent of Agency was to allocate the same amount of credit to the Project, notwithstanding the number of the buildings in the Project. Further, the change does not affect the amount of housing credit dollar amount allocated to the Project, the ranking of the Project in Agency's c allocation round, nor any other aspect of the carryover allocation for the Project. Thus, a correctable administrative error occurred in this situation.

Under the represented facts, the c carryover allocation is the credit allocating document. Under § 1.42-13(b)(3)(iii)(A), the Secretary must pre-approve a correction of 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 requires a numerical change to the credit amount allocated for the building or project. In the present case, the correction would involve a numerical change to the credit amount allocated to the f buildings that properly received BINs.

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

1. Partnership committed an administrative error when it failed to identify the actual number of residential buildings in the Project in the tax credit application submitted to Agency;

2. Because of that administrative error, the c carryover allocation inaccurately reflects the intent of Agency and Partnership when the c carryover allocation was executed;

3. Agency and Partnership requested to correct the administrative error within a reasonable period of time after becoming aware of the administrative error;

4. Agency will assign b additional BIN to accurately reflect that there are a residential buildings in the Project; and

5. Agency will allocate low-income housing tax credit to each of the a residential buildings in the Project, not exceeding $d for the entire Project.

To correct this administrative error, Agency must do the following:

1. Amend the c carryover allocation to include a BIN for the b additional residential building in the Project and to allocate the appropriate amount of low-income housing tax credit to each of the a residential buildings in the Project, not exceeding $d for the entire Project. The new BIN does not have to be in sequential order with the existing f BINs and the existing f BINs shall continue in effect. On the amended c carryover allocation, Agency should indicate that it is making the correction under § 1.42-13(b); and

2. Attach a copy of the amended c carryover allocation to an amended Form 8610, Annual Low-Income Housing Credit Agencies Report, for c, and file the amended Form 8610 with the Service. When completing the amended Form 8610, Agency should follow the specific instructions on the Form 8610 under the heading "Amended Reports."

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 the low-income housing tax credit under § 42 nor the validity of the Project's costs included in eligible basis.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely yours,

(Signed) Harold E Burghart

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Enclosure: 6110 copy