Internal Revenue Service

Number: **201616007**
Release Date: 4/15/2016

Index Number: 9100.01-00, 42.00-00

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-139678-15
Date:
January 13, 2016

Taxpayer   =

Address   =

BIN   =

Year 1   =

Dear   :

This letter responds to Taxpayer's authorized representative's letter dated December 7, 2015, and subsequent correspondence, requesting an extension of time to make an election under § 42(f)(1) of the Internal Revenue Code pursuant to § 301.9100-1 of the Procedure and Administration Regulations.

According to the information submitted, Taxpayer, a partnership for federal income tax purposes, placed a building identified by BIN in service in Year 1. The building identified by BIN is located at Address. Taxpayer inadvertently failed to make a timely election under § 42(f)(1) to begin the credit period for the building identified by BIN in Year 1.

Section 42(f)(1) defines the credit period of any building as the period of 10 taxable years beginning with the taxable year in which the building is placed in service, or at the taxpayer's irrevocable election, the succeeding taxable year, but in either case only if the building is a qualified low-income building at the close of the first year of the credit period.

Section 301.9100-8(b) provides that the election under § 42(f)(1) generally must be made for the taxable year in which the project is placed in service, or the succeeding taxable year if the § 42(f)(1) election is made to defer the start of the credit period, and must be made in the certification required to be filed pursuant to § 42(l)(1) and (2). Section 301.9100-8(a)(4)(i) provides that the election under § 42(f)(1) is irrevocable.

Specifically, the election under § 42(f)(1) is made pursuant to the certification requirement of § 42(l)(1)(E), which provides that following the close of the first taxable year in the credit period with respect to any qualified low-income building, the taxpayer shall certify to the Secretary (at such time and in such form and in such manner as the Secretary prescribes) such other information as the Secretary may require.

Section 1.42-1(h) of the Income Tax Regulations provides that a completed Form 8609, Low-Income Housing Credit Allocation and Certification, must be filed by the building owner with the IRS. The requirements for completing and filing Form 8609 are addressed in the instructions to the form. Completion of the relevant portions of Form 8609 satisfy the certification requirement of § 42(l)(1) and (2).

The instructions to Form 8609 provide that the building owner must make a one-time submission of Form 8609 to the Low-Income Housing Credit (LIHC) Unit at the IRS Philadelphia campus. The building owner must file the original of the Form 8609 with the LIHC Unit no later than the due date (including extensions) of its first tax return with which it is filing Form 8609-A, Annual Statement for Low-Income Housing Credit.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election.

Section 301.9100-1(b) defines the term "regulatory election" as including an election whose due date is prescribed by a regulation, revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3(a) will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the government.

In the instant case, based solely on the facts submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been met. Accordingly, Taxpayer is granted an extension of time to make the election under § 42(f)(1) for the building identified by BIN by filing within 120 days from the date of this letter an amended Form 8609 that includes the intended election. The amended Form 8609 (along with a copy of this letter) must be filed with the LIHC Unit at the following address provided in the instructions to Form 8609:

Department of the Treasury
Internal Revenue Service Center
Philadelphia, PA 19255-0549

By making the election under § 42(f)(1) for the building identified by BIN, Taxpayer is electing to begin the credit period for the building identified by BIN in Year 1. Accordingly, Taxpayer must file its Federal income tax returns, including the Form 8609-A and the Schedules K-1, for Year 1 and all subsequent years as is necessary to reflect the proper amount of § 42 credits.

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 building identified by BIN otherwise qualifies for the low-income housing credit under § 42.

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.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to Taxpayer's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
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

cc: