

Internal Revenue Service

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Department of the Treasury

Washington, D.C. 20044

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:5 — PLR-164241-01

Date:

March 19, 2002

Legend:

Taxpayer =

Partnership =

Project =

Development =

State A =

Corp A =

Corp B =

Agency =

B =

C =

b =

c =

d =

e =

f =

g =

Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =
Date 6 =
Date 7 =
Date 8 =
Date 9 =
Date 10 =
Date 11 =
Year 1 =

Dear :

This letter responds to your letter dated September 10, 2001, and subsequent correspondence, submitted on behalf of Taxpayer, requesting a private letter ruling that will waive for the Project the 10-year holding period requirement for existing buildings of § 42(d)(2)(B)(ii) of the Internal Revenue Code, under the authority of the exception for the acquisition of certain federally-assisted buildings provided under § 42(d)(6)(A)(i).

Taxpayer makes the following representations.

FACTS

Taxpayer was organized on Date 1 as a State A limited partnership for the purpose of owning and operating an apartment complex (the Project). Taxpayer consists of Corp A, a State A corporation, as the general partner with a b percent interest, and individual B, as the limited partner with a c percent interest.

The Project consists of d units in e buildings, with f units in each, and an additional building containing the office, laundry, and manager's unit. The Project was first placed in service by individual C on Date 2. The Project's original name was Development, until it was renamed by Corp A on Date 6. On or about Date 3, individual C formed Partnership to own and operate the Project.

On Date 4, Corp B replaced individual C as general partner of Partnership. On Date 5, Corp A purchased Corp B's interest in the Partnership. During both of these

transactions, the limited partners remained the same. Corp A bought out the limited partners' interests on Date 6.

On Date 7, the Rural Housing Service (RHS) of the U.S. Department of Agriculture, formerly Farmers Home Administration, approved the 100 percent transfer of ownership from Partnership to Taxpayer, to avert federal funds being at risk. On Date 8, Taxpayer received a Year 1 reservation for an allocation of the § 42 low-income housing credit from Agency.

Taxpayer acquired the Project from Partnership on Date 9 by an act of sale and assumption of a renegotiated loan held by RHS in the amount of \$g. By Date 10, all transactions with RHS involved in the acquisition of the Project from Partnership were complete. RHS has submitted a letter dated Date 11 to the Internal Revenue Service designating the Project as a "troubled project" based on a history of financial distress and mortgage default.

Taxpayer has made the following additional representations and certifications regarding the Project:

1. The acquisition of the buildings in the Project was by purchase (as defined in § 179(d)(2) and as further restricted by § 42(d)(2)(D)(iii)(I);
2. The buildings in the project were not previously placed in service by Taxpayer or by a person who was a related person (as defined in § 42(d)(2)(B)(iii)(II)) with respect to Taxpayer at the time the Project was last placed in service;
2. The buildings in the Project were "federally-assisted buildings" as defined in § 42(d)(6)(B)(iii) and § 1.42-2(c)(1) of the Income Tax Regulations.
4. To the best knowledge of Taxpayer, there have been no nonqualified substantial improvements to the Project since it was last placed in service; and
5. To the best knowledge of Taxpayer, no prior owner of the Project was allowed a low-income housing credit under § 42 for the Project.

RULING REQUESTED

Taxpayer requests a ruling that will waive for the Project the 10-year holding period requirement for existing buildings of § 42(d)(2)(B)(ii) of the Internal Revenue Code, under the authority of the exception for the acquisition of certain federally-assisted buildings provided in § 42(d)(6)(A)(i).

LAW AND ANALYSIS

For an existing building to qualify for the 30-percent present value low-income housing tax credit, § 42(d)(2)(B)(ii) requires that there be a period of at least 10 years between the date of the building's acquisition by the taxpayer and the later of:

1. The date the building was last placed in service, or
2. The date of the most recent nonqualified substantial improvement of the building.

Based solely upon Taxpayer's representations, and the relevant law set forth above, we conclude that the Project satisfies the 10-year holding period requirement of § 42(d)(2)(B)(ii).

No opinion is expressed or implied regarding the application of any other provision of the Code or regulations. Specifically, we offer no opinion, either expressly or impliedly, on whether the Project otherwise qualifies for the low-income housing credit under § 42, or whether any other requirement of § 42 is met.

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,
Susan Reaman
Chief, Branch 5
Office of Assistant Chief Counsel
(Passthroughs and Special Industries)

Enclosure:
copy for 6110 purposes