

Internal Revenue Service

Number: **200617003**
Release Date: 4/28/2006
UIL: 42.10-05

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:

Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-120407-05
Date:
January 12, 2006

LEGEND:

Taxpayer =

Group One =

Corporation Two =

Corporation Three =

Corporation Four =

Examination Office A =

a =

b =

x =

Dear :

This letter responds to your letter dated April 6, 2005, and subsequent correspondence provided on behalf of Taxpayer, requesting a ruling regarding certain federal tax consequences under section 42(j) of the Internal Revenue Code. The relevant facts as represented by the Taxpayer in these submissions are set forth below.

FACTS

Taxpayer is the U.S. parent of a group of companies that regularly invests in partnerships owning low-income housing credit projects under section 42 of the Code. The Internal Revenue Service examination area that will have audit jurisdiction over Taxpayer and Corporation Two is Examination Office A. Taxpayer is part of a larger organization, Group One, which includes businesses providing x.

Corporation Two, an affiliate of Taxpayer, holds a Certificate of Authority as an Acceptable Surety on Federal Bonds from the Department of the Treasury, Financial Management Service and is listed in Department of the Treasury, Fiscal Service Circular 570. Corporation Two intends to provide bonding for related corporate entities, both within its own consolidated group and within other domestic Taxpayer consolidated groups, and for other domestic affiliated separate filing entities as well as offering its bonding services to unrelated parties.

In particular, Corporation Three, a subsidiary of Taxpayer, will acquire superseding bonds from Corporation Two to replace existing bonds acquired from Corporation Four, an unrelated surety bond company. The superseding bonds will be in effect upon the expiration of the initial a year premium period in connection with the Form 8693 Low-Income Housing Credit Disposition Bond executed between Corporations Three and Four, approved on b and currently on file with the Internal Revenue Service.

LAW AND ANALYSIS

Section 38(a) provides for a general business credit against tax that includes the amount of the current year business credit. Section 38(b)(5) provides that the amount of the current year business credit includes the low-income housing credit determined under section 42(a).

Section 42(a) provides that, for purposes of section 38, the amount of the low-income housing credit determined under section 42 for any taxable year in a 10-year credit period shall be an amount equal to the applicable percentage of the qualified basis of each qualified low-income building.

Section 42(c) provides that the qualified basis of any qualified low-income building for any taxable year is an amount equal to the applicable fraction (defined in section 42(c)(1)(B)) of the eligible basis of such building.

Section 42(j)(1) provides that if as of the close of any taxable year in the compliance period, the amount of the qualified basis of any building with respect to the taxpayer is less than the amount of such basis as of the close of the preceding taxable year, then the taxpayer's tax for the taxable year shall be increased by the credit recapture amount. However, under section 42(j)(6), no recapture will be imposed on a disposition of a low-income building (or an interest therein) if the taxpayer furnishes to the Secretary a bond in an amount satisfactory to the Secretary and for the period required by the Secretary and it is reasonably expected that the building will continue to be operated as a qualified low-income building for the remaining compliance period of the building.

In the instant case, based solely on the facts submitted and the representations made by the Taxpayer, we conclude that the fact that Taxpayer and its domestic corporate subsidiaries and affiliates are related to Corporation Two, does not preclude Taxpayer and its domestic corporate subsidiaries and affiliates from obtaining surety bonding from Corporation Two for purposes of section 42(j)(6). We expressly provide no opinion on the specific transactions and agreements among the Taxpayer, its domestic corporate subsidiaries and affiliates, and Corporation Two for obtaining surety bonds. Further, nothing in this ruling shall be construed to relieve Taxpayer from the obligation of having the bonds approved by the IRS Bond Approving Official through the execution of a new Form 8693. No opinion is expressed or implied regarding the application of any other provisions of the Code, regulations, or other legal requirements.

This ruling is directed only to the Taxpayer which requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent. Pursuant to the power of attorney Form 2848 on file, a copy of this ruling is being sent to your authorized representative.

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

Enclosure:
section 6110