

Rev. Proc. 92-31, 1992-17 IRB 21--IRC Sec(s). 42

March 31, 1992

Part III

Administrative, Procedural, and Miscellaneous 26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability. (Also Part I, Section 42; 1.42-1T.)

1. PURPOSE

This revenue procedure provides guidance to state housing credit agencies (Agencies) of qualified states that request an allocation of unused housing credit carryover under section 42(h)(3)(D)(iii) of the Internal Revenue Code.

2. BACKGROUND

01. Section 42(h)(3)(D)(i) of the Code provides generally that the unused housing credit carryover of a state for any calendar year shall be assigned to the Secretary for allocation among qualified states for the succeeding calendar year. The allocation of credits to qualified states is to be made from a national pool of unused credit authority (the National Pool) consisting of all of the unused housing credit carryovers assigned to the Secretary.

02. Section 42(h)(3)(D)(ii) of the Code provides that the unused housing credit carryover of a state for any calendar year is the excess (if any) of the unused state housing credit ceiling for that year (as defined in section 42(h)(3)(C)(ii)) over the excess (if any) of

(I) the aggregate housing credit dollar amount allocated for that year, over

(II) the sum of the amounts described in clauses (i) (describing the population based component of the state housing credit ceiling) and (iii) (describing the returned credit component of the state housing credit ceiling) of section 42(h)(3)(C).

03. Section 42(h)(3)(D)(iv) of the Code provides generally that the term "qualified state" means, with respect to the current calendar year, any state that has allocated its entire state housing credit ceiling for the preceding calendar year and for which a request is made (not later than May 1 of the current calendar year) to receive an allocation of credit from the National Pool for the current calendar year.

04. Section 42(h)(3)(D)(iii) of the Code describes the formula for allocation of unused housing credit carryovers from the National Pool to qualified states. The amount to be allocated to a qualified state for any calendar year must bear the same ratio to the aggregate unused housing credit carryovers of all states for the preceding calendar year as that state's population for the calendar year bears to the population of all qualified states for the calendar year. A state's population, for this purpose, is determined in accordance with section 146(j).

05. Section 146(j) of the Code provides generally that determinations of the population of any state are made with respect to any calendar year on the basis of the most recent census estimate of the resident population of that state released by the Bureau of the Census before the beginning of that calendar year.

06. Section 1.42-1T(b) of the temporary Income Tax Regulations provides that a state's population for any calendar year is determined by reference to the most recent census estimate of the resident population of the state released by the Bureau of the Census before the beginning of the calendar year for which the state's housing credit ceiling is set. Determinations of population are based on the most recent estimates of resident population contained in the Bureau of the Census publication, "Current Population Reports, Series P-25: Population Estimates and Projections, Estimates of the Population of States".

07. Section 42(1)(3) of the Code provides that each Agency that allocates a housing credit dollar amount to any building for any calendar year shall submit to the Secretary (at the time and in the manner as the Secretary shall prescribe) an annual report specifying the housing credit dollar amount allocated to each building for that year and sufficient information to identify each building and the taxpayer(s) associated with the building. Form 8610, Annual Low- Income Housing Credit Agencies Report, is used by Agencies to fulfill their obligations under section 42(1)(3). The general instructions to Form 8610 require that if a state has multiple Agencies, the Agencies must coordinate and file one Form 8610 for the state.

08. Section 1.42-1T(d)(8)(ii) of the temporary regulations provides that a single completed Form 8610, with the appropriate attachments, must be mailed by each state to the Internal Revenue Service not later than the 28th day of the second calendar month after the close of the calendar year in which a housing credit dollar amount was allocated.

09. The Secretary will use the information provided on Form 8610 to determine the prior calendar year's unused housing credit carryovers that are available for allocation to qualified states from the current year National Pool.

3. SCOPE

This revenue procedure applies to Agencies of qualified states that request to receive an allocation of credit from the National Pool of unused housing credit carryovers.

4. PROCEDURE -- METHOD FOR REQUESTING CREDIT FROM THE NATIONAL POOL BY THE FILING AGENCY OF A QUALIFIED STATE.

01. The Agency responsible for filing Form 8610 (the Filing Agency) of a qualified state is the only housing credit agency that may request, on behalf of the qualified state, to receive an allocation of credit from the National Pool.

02. The request must be in writing, postmarked no later than May 1 of the calendar year in which the allocation is requested, and must be signed by an authorized official of the Filing Agency.

03. The request must briefly explain that a request for allocation of credit from the National Pool is being made under section 42(h)(3)(D) of the Code.

04. A copy of the Form 8610 (or most recently amended Form 8610) filed by the Filing Agency for the preceding calendar year must accompany the request.

05. The request and the copy of Form 8610 (or most recently amended Form 8610) should be sent to:

Internal Revenue Service

Director, Statistics of Income Division R:S

Post Office Box 2608

Washington, D.C. 20013-2608

06. In response to the requests for allocations of credit from the National Pool, the Service will publish in the Internal Revenue Bulletin the amounts of unused housing credit carryovers assigned to qualified states from the National Pool for that calendar year.

5. EFFECTIVE DATE

This revenue procedure is effective beginning with assignments of 1991 calendar year unused housing credit carryovers to the National Pool and 1992 calendar year requests by Agencies of qualified states for allocations of credit from the National Pool.

DRAFTING INFORMATION

The principal author of this revenue procedure is Christopher J. Wilson of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). For further information regarding this revenue procedure contact Mr. Wilson on (202) 377-6349 (not a toll-free call).