Department of the Treasury

Internal Revenue Service

Office of Chief Counsel

Notice

CC-2005-014

June 24, 2005

Improper Allocation Documents for

the Commercial Revitalization
Deduction

Until Incorporation

Cancel Date: Into the CCDM

Subject:

Purpose

This notice announces a change in the required information to be included in the documents for allocations under § 1400l of commercial revitalization expenditure amounts that were made by a commercial revitalization agency before 2005.

Background

Section 1400I allows a taxpayer to elect to recover the cost of a qualified revitalization building using a more accelerated method than is otherwise allowable under § 168. A qualified revitalization building is any new or substantially rehabilitated nonresidential building and its structural components that is placed in service by the taxpayer in a renewal community. The amount of the cost of a qualified revitalization building subject to the election is the lesser of (1) \$10 million, or (2) the commercial revitalization expenditure amount allocated to the building under § 1400I by the commercial revitalization agency for the state in which the building is located.

Rev. Proc. 2003-38, 2003-1 C.B. 1017, provides the time and manner for a commercial revitalization agency to make allocations under § 1400l of commercial revitalization expenditure amounts. Pursuant to this revenue procedure, a commercial revitalization agency may make a placed-in-service year allocation or a carryover allocation.

Section 4 of Rev. Proc. 2003-38 provides the time and manner for making a placed-in-service year allocation. This allocation is an allocation of commercial revitalization expenditure amounts to a qualified revitalization building in the calendar year in which that building is placed in service by the taxpayer. The information required to be included in the allocation document for this type of allocation is listed in section 4.02(2) of Rev. Proc. 2003-38. If the allocation document does not include the required information, the allocation is not valid.

Section 6 provides the time and manner for making a carryover allocation. This allocation is an allocation of commercial revitalization expenditure amounts to a qualified revitalization building

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that is placed in service by a taxpayer not later than the close of the second calendar year following the calendar year in which the allocation is made, provided the taxpayer's basis in the project of which the building is a part (as of the later of the date that is 6 months after the date that the allocation is made or the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer's reasonably expected basis in the project as of the close of the second calendar year following the calendar year in which the allocation is made. The information required to be included in the allocation document for this type of allocation is listed in section 6.02(2) of Rev. Proc. 2003-38. If the allocation document does not include the required information, the allocation is not valid.

We recently became aware that several commercial revitalization agencies are unaware of the information required to be included in a placed-in-service year allocation and a carryover allocation. As a result, the commercial revitalization agencies have not provided all of the information required by section 4.02(2) or 6.02(2) (as applicable) of Rev. Proc. 2003-38 in the allocation documents for allocations made in calendar years ending on or before December 31, 2004.

Change in procedures for years before 2005

The Service recognizes that commercial revitalization agencies have encountered problems with the allocation documents during the start-up of the commercial revitalization expenditure allocation program. As a result, the Service has decided that an allocation document for a placed-in-service year allocation or a carryover allocation that was made before 2005 will be deemed to meet the requirements of, respectively, section 4.02 or 6.02 of Rev. Proc. 2003-38, if the allocation document contains sufficient information to identify (1) the commercial revitalization agency, (2) the taxpayer that received the allocation, (3) the building to which the commercial revitalization expenditure amounts are allocated, (4) the date or the year of the allocation, and (5) the amount of the placed-in-service year allocation or the carryover allocation.

Procedures for years after 2004

A placed-in-service year allocation or a carryover allocation made after 2004 will be a valid allocation only if it is made in accordance with the requirements of, respectively, section 4 or 6 of Rev. Proc. 2003-38. Accordingly, the allocation document must contain the information required by section 4.02 or 6.02 of Rev. Proc. 2003-38, as applicable.

If you have any questions regarding this notice, please contact Charles Magee, Passthroughs and Special Industries, at (202) 622-3110.

/s/

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(Passthroughs and Special Industries)