

Section 38.—General Business Credit

Loan to community development corporation is eligible for general business credit. The full amount of the loan made to a community development corporation (CDC) is a "transfer of cash" to the CDC for purposes of the definition of a "qualified CDC contribution."

Rev. Rul. 97-51

ISSUE

What amount of a loan may a community development corporation (CDC) treat as a "transfer of cash" for purposes of the definition of a "qualified CDC contribution"?

FACTS

Bank wishes to lend money to X, a CDC, that X will use to provide employment and business opportunities for low-income residents in its operational area. In June 1994, the Secretary of Housing and Urban Development (HUD) designated X a "selected community development corporation" under § 13311 of the Omnibus Revenue Reconciliation Act of 1993, 1993-3 C.B. 144 (the Act). Bank and X have negotiated an agreement that Bank will lend X \$2,000,000 on December 31, 1997, for 10 years at a stated rate of interest. Under the terms of the loan, X does not have to repay the loan before the end of 10 years.

LAW AND ANALYSIS

Section 13311 of the Act provides a business credit under § 38 of the Internal Revenue Code for a qualified CDC contribution made by a taxpayer to a CDC. A qualified CDC contribution is any transfer of cash (1) made to a CDC during the 5-year period beginning June 30, 1994, (2) that is available for use by the CDC for at least 10 years, (3) that the CDC uses to provide employment and business opportunities for low-income individuals who are residents of the operational area of the CDC, and (4) that the CDC designates as a qualified CDC contribution. The Secretary of HUD selects the 20 qualifying CDCs and determines whether those

CDCs spend the money received appropriately.

A contributing taxpayer may claim an annual credit during a 10-year period equal to 5 percent of its contribution that is designated by the CDC as a qualified CDC contribution. The aggregate amount of contributions that a CDC can designate as eligible for the credit may not exceed \$2,000,000. The credit period begins with the taxable year during which the taxpayer made the qualified CDC contribution.

A qualified contribution to a CDC need not be in the form of an outright gift. A qualified contribution may also be made in the form of a loan, the principal of which is to be returned to the lender taxpayer after the 10-year period. H.R. Rep. No. 2264, 103d Cong., 1st Sess. 801 n.196 (1993), 1993-3 C.B. 377.

In the present case, Bank is lending \$2,000,000 to X for 10 years. To the extent of the amount of the loan designated by X as a qualified CDC contribution, Bank is eligible to claim the CDC credit.

HOLDING

The full amount of the loan made to a CDC is a "transfer of cash" to the CDC for purposes of the definition of a "qualified CDC contribution."

DRAFTING INFORMATION

The principal author of this revenue ruling is Paul Handleman of the Office of the Assistant Chief Counsel (Pass-throughs and Special Industries). For further information regarding this revenue ruling contact Mr. Handleman on (202) 622-3040 (not a toll free number).
