

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:6-PLR-154954-02
Date:
May 2, 2003

Re: Request for Extension of Time to File Application for Certification of Historic Status

Taxpayer =

Property =

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

l =

m =

n =

SB/SE Official =

Dear :

This letter responds to a letter dated September 17, 2002, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations for Taxpayer to file an application for certification of historic status with the United States Department of Interior.

Taxpayer, a limited partnership, is the owner of the Property. The Property, which is currently used as an k, consists of l. A plaque located on the side of the m states that it is a “contributing structure” to h.

Taxpayer purchased the Property in c to convert its use from a m to office space that Taxpayer would rent to other businesses.

Taxpayer intended to claim historic rehabilitation credit attributable to rehabilitation of the Property. Taxpayer commenced rehabilitation of the Property in c. Taxpayer completed rehabilitation of the Property in d, at which time Taxpayer placed the Property in service.

On n, Taxpayer sent the application for certification of historic status (the "application") directly to the Department of Interior, National Park Service ("NPS"). By letter dated e, the NPS informed Taxpayer that Department of Interior regulations 36 CFR Part 67 (53 FR 18292) provide that the NPS will not consider Taxpayer's application until it had reviewed and received the State Historic Preservation Officer's comments regarding the application. Accordingly, the NPS advised Taxpayer that it had forwarded the application to the f.

By letter dated g, the f acknowledged receipt of the application, and notified Taxpayer of the filing requirement of § 1.48-12(d)(1) of the Income Tax Regulations. Taxpayer represents that, prior to this letter, it was unfamiliar with the requirement to file the application with the NPS before the Property was placed in service. Taxpayer represents that it believed the Property was eligible for the rehabilitation credit because, as noted on the plaque, the Property is a contributing structure to h. Consequently, Taxpayer submitted the instant request for relief under § 301.9100-3.

During the pendency of the instant request for relief, the NPS responded to Taxpayer's part 1 of the application. By letter dated i, the NPS advised Taxpayer that it had determined that the Property contributes to the significance of the h.

Taxpayer's request for relief under section 301.9100-3 was filed before j, the extended due date for filing Taxpayer's k federal tax return on which the credit must be claimed.

LAW AND ANALYSIS

Section 47(a)(2) of the Internal Revenue Code provides that the rehabilitation credit for any taxable year includes an amount equal to 20% of the qualified rehabilitation expenditures with respect to any certified historic structure.

Section 47(c)(3)(A) provides that the term "certified historic structure" means any building 1) listed in the National Register of Historic Places, or 2) located in a registered historic district and certified by the Secretary of the Interior as being of historic significance to the district.

Section 1.48-12(d)(1) of the Income Tax Regulations provides that a building shall be considered to be a certified historic structure at the time it is placed in service if the taxpayer reasonably believes on that date the building will be determined to be a certified historic structure and has requested on or before that date a determination from the U.S.

Department of the Interior that such a building is a certified historic structure

within the meaning of the historic rehabilitation credit provisions, and the U.S. Department of Interior later determines that the building is a certified historic structure.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Section 301.9100-1(b) provides that the term "election" includes an application for relief in respect of tax.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2. A request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer's application will be considered timely filed for purposes of § 1.48-12(d)(1). A copy of this letter should be sent to the appropriate service center with a request that it be attached to Taxpayer's amended b tax return. A copy is enclosed for that purpose.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provisions of the Code.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. We are also sending a copy of this letter to the SB/SE Official.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2):

copy of this letter
copy for section 6110 purposes