

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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, ID No.

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Refer Reply To:
CC:PSI:6
PLR-100587-05

Date:
March 22, 2005

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

Taxpayer =
Property =

Historical =
District

b =

c =

d =

e =

f =

g =

h =

i =

j =

k =

l =

m =

n =

o =

p =

SB/SE Official

Dear :

This letter responds to a letter filed with the national office on December 30, 2004, 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 is the sole member of n, the owner of the Property. The Property, a two-story red brick building, is a certified historic structure in the Historical District. Taxpayer purchased the Property in b, and spent \$c to restore the Property before placing it in service on d, for use as office and retail rental property.

Taxpayer was unaware that he could claim a historic rehabilitation credit attributable to the rehabilitation. Consequently, Taxpayer did not file the application for certification of historic status with the Department of Interior, National Park Service (ANPS@) before the Property was placed in service, as required by section 1.48-12(d)(1) of the Income Tax Regulations. Taxpayer did not file part 1 of the application with the NPS until e, two years and two months after the Property was placed in service. The NPS approved part 1 on f. The NPS approved part 3 of the application, the final certification of completed work, on p.

Taxpayer represents that he has no education, experience, or background in finance or accounting. Since b, Taxpayer used the same local certified public accountant, g, to prepare his b, h, and i federal income tax returns and provide professional advice. Taxpayer provided g with all information regarding rehabilitation of the Property. However, at no time did g discuss the historic rehabilitation credit or related issues with Taxpayer.

Taxpayer filed his federal income tax return for the h taxable year on j, before the due date of such return. Taxpayer first learned of the historical rehabilitation credit from k, in l. Taxpayer subsequently learned of the requirement to file part 1 of the historical certification application prior to placing the Property in service from the NPS shortly after m.

Taxpayer's request for relief under section 301.9100-3 was filed on December 30, 2004.

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 percent 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) 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.

Under section 301.9100-1, the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in ' ' 301.9100-2 and 301.9100-3 to make a regulatory election. 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. Section 301.9100-3(a) provides that 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 part 1 of the application for certification of historic status for the Property will be considered timely filed for purposes of ' 1.48-12(d)(1). To claim the rehabilitation credit for the qualified rehabilitation expenditures with respect to the Property, Taxpayer must file an amended Federal tax return for the h taxable year on or before o, the expiration date of the period of limitation on assessment for the h taxable year, with a completed Form 3468, Investment Credit, and a copy of this letter. 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,

(signed) Heather C. Maloy

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

Enclosures (2):
copy of this letter
copy for section 6110 purposes