

Internal Revenue Service

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Department of the Treasury

P.O. Box 7604
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Washington, DC 20044

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:6 — PLR-108356-00
Date: 10/06/00

Legend:

Taxpayer =

x =

y =

Building =

Dear

This letter responds to a letter dated April 11, 2000, 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 Department of Interior.

Facts

Taxpayer, the owner of Building, rehabilitated Building and placed it in service. Taxpayer intended to claim historic rehabilitation credit attributable to the rehabilitation. However, Taxpayer did not file an application for certification of historic status with the Department of Interior before Building was placed in service, as required by § 1.48-12(d)(1) of the Income Tax Regulations. Taxpayer was unaware of this requirement and had agreed, at the behest of x, not to file such application until the rehabilitation of Building was completed. x is a nonprofit corporation interested in the preservation of local historic buildings. Taxpayer's application for certification of historic status and request for relief under § 301.9100-3 were filed before the due date for filing Taxpayer's y 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 Department of Interior that such building is a certified historic structure within the meaning of the historic rehabilitation credit provisions, and the 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. Requests 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 for certification of historic status will be considered timely filed for purposes of § 1.48-12(d)(1). A copy of this letter should be attached to Taxpayer’s y 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 District Director of the District.

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

Sincerely yours,
Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2): Copy of this letter
Copy for § 6110 purposes

cc: District Director, District
Attn: Chief, Examination Division