

**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-162219-02  
Date:  
April 1, 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 =

o =

p =

q =

r =

s =

t =

u =

v =

w =

x =  
y =  
aa =  
bb =  
cc =  
dd =  
SB/SE Official =

Dear :

This letter responds to a letter dated b, 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 owner of Property. Taxpayer and its predecessor, c, have been in the business of acquiring and developing commercial real estate since d.

Beginning in e, Taxpayer began to acquire parcels of real estate in what is known as f, for redevelopment. In all, four separate buildings were acquired, three of which have been placed in service. Taxpayer acquired Property on g.

Taxpayer placed the Property in service in h. On i, j, a not-for-profit educational group engaged in the continuing education of public school teachers in k, took occupancy of the second and third floors of Property. On l, m, whose members consist of a group of urgent-care physicians, took occupancy of the first floor. And on n, o, a medical rehabilitation organization, and o's medical director, p, took occupancy of the basement of Property.

Taxpayer represents that it was generally familiar with the requirement that any rehabilitation to a potentially certified historic structure be done with the approval of the Department of Interior, National Park Service ("NPS") for the rehabilitation to be eligible for the rehabilitation credit. However, Taxpayer maintains that it was unaware of the requirement to file the application for certification of historic status (hereinafter, "application") with the NPS before the properties were placed in service, as required by § 1.48-12(d)(1) of the Income Tax Regulations. Taxpayer further maintains that, during the rehabilitation process, local representatives from q and r failed to notify Taxpayer of this requirement during meetings to discuss compliance with Federal requirements.

In s, Taxpayer hired t, an historic preservation consultant, to advise Taxpayer with respect to the kinds of rehabilitation that would make the project eligible for the tax credit. Taxpayer represents that t first made Taxpayer aware of the filing requirement in u. Consequently, Taxpayer filed the application with the NPS on v, by which time Taxpayer had already renovated Property and placed it in service.

Taxpayer offers certifications from the following individuals stating that they were unaware of the filing requirement mandated by § 1.48-12(d)(1): (1) w, Taxpayer's chief operating officer; (2) x, a certified public accountant with the accounting firm y, who prepared and timely filed Taxpayer's Form 1065 for the s taxable year; (3) aa, an attorney with the law firm of bb, who is principally responsible for advising Taxpayer with respect to the rehabilitation of the property; and (4) t.

Taxpayer intended to claim historic rehabilitation credit attributable to the rehabilitation. However, as previously discussed, Taxpayer did not learn until u of the requirement to file the application with the NPS before Property was placed in service. Taxpayer filed the application with the NPS on v and submitted the request for an extension of time under § 301.9100-3 on b. Subsequently, Taxpayer filed an amended return on cc to account for eligible rehabilitation costs of dd, and to claim the credit.

## 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 s 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

cc: