

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **200414006**

Release Date: 4/2/04

Index Number: 9100.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:6 – PLR-125989-03

Date:

November 18, 2003

In Re:

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

Taxpayer =

Property =

b =

c =

d =

e =

f =

SB/SE =

Official

Dear :

This letter responds to a letter dated October 16, 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.

According to the information submitted, Taxpayer obtained ownership of the Property in b and began extensive rehabilitation in c. The rehabilitation project has not been completed yet.

On d, Taxpayer placed the Property in service under a temporary occupancy permit. In e, Taxpayer learned in a telephone conversation with the that the Property was not listed on the National Register of Historic Places (the "National Register").

Taxpayer represents that it had not filed the application for certification of historic status (the "application") before the Property was placed in service, as required by § 1.48-12(d)(1) of the Income Tax Regulations, because it had relied on the assertion of the architectural firm handling the rehabilitation project that the Property was listed on the National Register as a certified historic structure under § 47(c)(3)(A)(i) of the Internal Revenue Code and erroneously believed that an application was not required. Upon learning in e that the Property was not listed on the National Register, Taxpayer started the application process with the . The works with the Department of Interior.

Taxpayer intended to claim historic rehabilitation credit attributable to the rehabilitation. However, as previously discussed, Taxpayer inadvertently failed to timely file the application with the .

## 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 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 attached to Taxpayer's amended f tax return or sent to the appropriate service center with a request that it be attached to Taxpayer's amended f tax return, as appropriate. A copy is enclosed for that purpose.

Please note that section 1.48-12(d)(7)(ii) of the regulations provides that if the final certification of completed work has not been issued by the Secretary of the Interior at the time the tax return is filed claiming rehabilitation credit, a copy of the first page of the Historic Preservation Certification Application--Part 2--Description of Rehabilitation, with an indication it has been received by the Department of the Interior or its designate, together with proof that the building is a certified historic structure (or that such status has been requested), must be attached to the form 3468 filed with the return.

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.

We are 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