

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:PSI:6 – PLR-147871-03

Date:
December 31, 2003

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

Taxpayer =

P1 =

P2 =

Property =

A =

B =

C =

G =

H =

I =

J =

Dear :

This letter responds to a letter submitted August 15, 2003, and supplemental correspondence, 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 for purposes of § 47(a)(2) of the Internal Revenue Code.

According to the information submitted, Taxpayer is the owner of Property. Taxpayer stages A at the Property.

Taxpayer is a wholly owned subsidiary of P1. P1 is a wholly owned subsidiary of P2. P2, a fiscal year taxpayer, files a consolidated Federal income tax return for an affiliated group that includes Taxpayer.

Taxpayer is the fee simple owner of Property. The Property is located in the B District, a certified historic district. In C, Taxpayer began renovating the Property. Taxpayer finished the rehabilitation and placed the Property in service on G. On H, Taxpayer sent the application for certification of historic status (the "application") to the State Historical Preservation Officer. On I, the Department of Interior, National Park Service acknowledged receipt of the Taxpayer's application and advised Taxpayer of the filing requirement.

Taxpayer represents that it always intended to claim the rehabilitation credit. In support, Taxpayer states that it tracked the rehabilitation by taking numerous photographs and keeping detailed records. Moreover, Taxpayer's management had numerous discussions about the project and the credit with their professional consultants. However, Taxpayer inadvertently failed to file part 1 of the application prior to placing the Property in service, as required by § 1.48-12(d)(1) of the Income Tax Regulations.

Taxpayer intended to claim historic rehabilitation credit attributable to the rehabilitation for the taxable year ended J. However, as previously discussed, Taxpayer did not learn of the requirement to file the application with the NPS before the Property was placed in service until J. Taxpayer submitted the request for an extension of time under § 301.9100-3 on August 15, 2003.

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 sent to the appropriate service center with a request that it be attached to Taxpayer's amended tax return for the taxable year ended J. 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.

In accordance with the power of attorney, we are sending a copy of this letter to Taxpayer's authorized representative. We are also sending a copy of this letter to the Industry Director, Communications, Technology & Media (LM:CTM).

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