

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-123699-18

Date:
March 01, 2019

Legend:

Taxpayer =

Property =

Year 1 =

Date 1 =

Date 2 =

Date 3 =

District =

Dear :

This letter responds to your letter dated June 20, 2018 and subsequent correspondence, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to file an application for certification of historic status with the United States Department of Interior for purposes of claiming the rehabilitation tax credit under section 47(a)(2) of the Internal Revenue Code.

According to the facts submitted, Taxpayer acquired Property in Year 1. Property is located in District, which has been certified by the Secretary of the Interior as a registered historic district. On Date 1, Taxpayer began renovations on Property. The renovations to Property were completed and the property was placed in service on Date 2. On Date 3, Taxpayer submitted the Part 1 to the State Historic Preservation Office and learned that it failed to file Part I of the Historic Preservation Certification Application with the Department of Interior prior to placing Property in service. Taxpayer inadvertently failed to file Part 1 of the Historic Preservation Certification Application with the Department of Interior prior to placing property in service.

LAW AND ANALYSIS

Section 47(a) provides that the rehabilitation credit for any taxable year is the sum of: (1) 10 percent of the qualified rehabilitation expenditures with respect to any qualified rehabilitated building other than a certified historic structure, and (2) 20 percent of the qualified rehabilitation expenditures with respect to any certified historic structure.

Section 47 was amended by “An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018.” Pub.L. 115-97, Title I, § 13402(a), (b)(1), Dec. 22, 2017, 131 Stat. 2134 (the Act). However, § 47(a), as amended by the Act, is not in effect for qualified rehabilitation expenditures paid or incurred during the years at issue.

Section 47(c)(3)(A) provides that the term “certified historic structure” means any building (and its structural components) that is (i) listed on the National Register, or (ii) is 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 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(a) provides that this section and §§ 301.9100-2 and 301.9100-3 establish the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. An extension of time is available for elections that a taxpayer is otherwise eligible to make. However, the granting of an extension of time is not a determination that the taxpayer is otherwise eligible to make the election.

Section 301.9100-1(b) provides that the term "election" includes an application for relief in respect of tax and that the term "regulatory election" includes an election whose due date is prescribed by a regulation published in the Federal Register.

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 taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

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 provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

CONCLUSIONS:

Based solely on the facts and the 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. A copy is enclosed for that purpose.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. In particular, we express no opinion on whether Taxpayer's rehabilitation expenditures with respect to Property are qualified rehabilitation expenditures under § 47 or whether Taxpayer's rehabilitation of Property otherwise meets the requirements under § 47.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling. In accordance with a power of attorney on file, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Nicole R. Cimino
Chief, Branch 5
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter
Copy for section 6110 purposes