



**NATIONAL TRUST**  
for HISTORIC PRESERVATION®

*Protecting the Irreplaceable™*

September 14, 2005  
RICHARD MOE  
PRESIDENT

Mr. Eric Solomon  
Acting Deputy Assistant Secretary for Tax Policy  
Treasury Department  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Mr. Donald L. Korb  
Chief Counsel  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

Re: Relief for Taxpayers Owning Rehabilitation Tax Credit Projects Affected by  
Hurricane Katrina

Dear Messrs. Solomon and Korb:

On behalf of the National Trust for Historic Preservation, I am writing to request relief for taxpayers owning Rehabilitation Tax Credit (“RTC”) projects affected by the Hurricane Katrina disaster. The National Trust is a private nonprofit organization chartered by Congress in 1949 to promote public participation in the preservation of our nation’s heritage, and to further the historic preservation policy of the United States. See 16 U.S.C. § 468. With the strong backing of more than 270,000 members and supporters, the National Trust works to protect significant historic sites, and to advocate historic preservation as a fundamental value in programs and policies at all levels of government. The National Trust also works to promote historic preservation as an economic development tool to revitalize communities while protecting their distinct sense of place. It is a tool that has been effectively used in the past to advance the quality of life for hundreds of communities in the Gulf Coast region, and it is one that, we believe, can play an important role in restoring and rebuilding the devastated communities of the region.

The National Trust for Historic Preservation applauds the numerous steps already taken by the Department of the Treasury (“Treasury”) and the Internal Revenue Service (“Service”) to aid those affected by this devastating natural disaster and to begin the recovery and rebuilding process. Borrowing from the model of relief being implemented in the low-income housing and new markets tax credit contexts, I ask for your help in preventing the RTC rules from becoming an additional burden to the victims. Of equal – or even greater – importance, I ask for your help in ensuring that the RTC can function successfully as a tool for helping to repair and restore the architectural heritage and economic vitality of the Gulf South region.



*Recipient of the National  
Humanities Medal*

The RTC is an investment tax credit that, as described in more detail below, encourages investment in certified historic structures and older commercial buildings. According to the National Park Service, which jointly administers the RTC program with the Service, the RTC is the largest federal program specifically supporting historic preservation, and has generated over \$33 billion in economic activity since its inception. Certified rehabilitation expenditures in Louisiana, Alabama, and Mississippi for 2004 alone were nearly \$75,000,000 spread across 63 projects. The RTC can be an important part of the recovery process in New Orleans and the Gulf South region.

We respectfully request that the Treasury and the Service take the following steps both to address the inequities that will result from this terrible disaster and to enable the RTC to function more efficiently as a tool for redevelopment in the affected region:

- (1) **Provide a reasonable period of time to place properties back into service to avoid recapture** – An owner of a building that was partially destroyed by Hurricane Katrina can avoid recapture of RTCs previously claimed by repairing the property and placing it back in service within a reasonable period of time. Given the widespread destruction, the complexities of historic rehabilitation and the tremendous demand for resources throughout the region that will continue into the foreseeable future, owners desiring to repair their properties must have a realistic period of time to do so. We request guidance that confirms the general rule that RTC recapture will not apply if a property is repaired and placed back into service within a reasonable period of time, and that for properties damaged by Katrina, that period will be at least three years, or longer as circumstances warrant.
- (2) **Permit property owners to use the \$5,000 minimum threshold for hurricane-related repair work** – In order to be eligible for the RTC, a property owner must incur a minimum amount of qualifying expenditures – *i.e.*, more than the *greater* of \$5,000 or the owner's adjusted basis in the property – within the applicable period (24 or 60 months). While longtime building owners will often have a very low (*i.e.* depreciated) adjusted basis, more recently acquired buildings often will not. In such cases, the effect of the adjusted bases requirement will be to arbitrarily deny RTCs in connection with the restoration of such buildings, even though RTCs will be available for similar (but fully depreciated) properties requiring comparable amounts of rehabilitation work. We request guidance that all building owners repairing Hurricane-Katrina-related damage be treated as having satisfied the RTC substantial rehabilitation test if they spend in excess of \$5,000 on qualifying basis eligible expenditures, irrespective of their prior adjusted bases in the buildings.

- (3) **Waive recapture for properties destroyed by Hurricane Katrina** – Hurricane Katrina caused such widespread devastation that some properties have been completely destroyed. Others have not suffered a total casualty but have irreplaceably lost their historic integrity. In either case, owners of such buildings still in the five year recapture period are subject to recapture. This rule creates a double loss for these owners and will diminish the resources that they can draw upon to help rebuild the region generally. We request a waiver of recapture for properties irreparably damaged by Hurricane Katrina.
- (4) **Waive recapture for properties subject to defaulted obligations** – Hurricane Katrina will cause tremendous hardship on virtually every property owner in the affected region, especially those that depend on ongoing business to meet loan obligations. A foreclosure, deed in lieu of foreclosure or other transfer in connection with the satisfaction of defaulted obligations to a lender triggers RTC recapture, again creating a double loss to property owners. We request that recapture be temporarily waived with respect to buildings that are disposed of for the benefit of a lender in connection with a borrower default that occurs during the next twelve months.
- (5) **Permit property owners to treat rehabilitation costs as capital expenditures** – Only rehabilitation expenses that are capital costs (*i.e.*, not currently deductible) are eligible for the RTC. The factual nature of this inquiry may cause uncertainty regarding credit eligibility. We request guidance that owners be permitted to capitalize rehabilitation expenditures for Hurricane Katrina-related repairs *that would be otherwise deductible*. This will eliminate investor uncertainty and pave the way for syndicated tax credit equity to flow into projects as a source of financing repairs.
- (6) **Permit property owners additional time to complete rehabilitation projects** – In general, qualifying rehabilitation expenditures must be incurred within a 24-month period. The widespread demand for resources throughout the Gulf South region will make meeting the 24-month test virtually impossible for many property owners who were in the middle of rehabilitation projects when Hurricane Katrina hit, and the extended 60-month period does not apply to unexpected delays. We request that owners be permitted to use the 60-month rule for rehabilitation projects that were underway prior to the hurricane or that include repair of hurricane damage.

In order to assist you in your review, attached please find a more detailed description of the proposals summarized above, which was prepared by our *pro bono* tax counsel Nixon Peabody LLP. To expedite this process, we have also taken the liberty of enclosing a draft notice implementing these proposals.

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We strongly urge you to support the relief described in this letter and hope that the Service will promptly issue a notice implementing this relief.

Thank you for your attention to this matter. Please contact me at (202) 588-6135, or contact Andrew Potts of Nixon Peabody at (202) 585-8337 if you have questions regarding any of the foregoing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard Moe".

Richard Moe

Enclosures

cc: Mr. Michael Desmond  
Acting Tax Legislative Counsel  
Office of Tax Policy  
Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, D.C. 20220

Ms. Heather C. Maloy  
Acting Deputy Chief Counsel (Technical)  
Internal Revenue Service  
1111 Constitution Avenue, NW  
Washington, D.C. 20224

## THE REHABILITATION TAX CREDIT AND HURRICANE KATRINA

The RTC is one of the investment tax credits provided for in section 38 of the Internal Revenue Code (“Code”). The RTC specific rules are set out in section 47. In general, these rules provide for a 20% income tax credit for “qualified rehabilitation expenditures” incurred in connection with the “substantial rehabilitation” of a “certified historic structure” and a 10% credit for expenditures incurred in the rehabilitation of nonresidential (*i.e.*, commercial) structures built before 1936. Congress designed these credits to stimulate capital investment in income-producing historic and older buildings and the revitalization of historic communities. As noted above, the credit is the largest federal program specifically supporting historic preservation. The program has been instrumental in attracting new private investment to historic cores of cities and towns and has generated significant jobs as well as affordable housing through the adaptive reuse of historic buildings.

For its part, the Gulf Regions of Louisiana, Alabama and Mississippi possess a rich mix of history, tradition and architecture found nowhere else in the United States. Because the region is a cultural treasure of international significance, the stabilization and restoration of its world-famed historic landmarks and neighborhoods in the wake of Hurricane Katrina has become a matter of global concern. Moreover, the region’s historic buildings represent not only its culture; they host an important segment of the region’s economic activity and house many of its residents. It is not surprising, then, that these devastated states have been among the leading users of the RTC. In 2004, for example, Louisiana reported the seventh highest number of RTC certified projects in the nation, with Alabama ranking 12<sup>th</sup>.

### Administrative Relief Sought

In view of the concentration of RTC projects in the hardest hit Hurricane Katrina disaster areas and the significance of these projects to the economy and the life of the region, it is critical that the RTC be a part of the recovery solution. A review of the RTC rules indicates that certain aspects of the substantial rehabilitation test may severely hamper this goal. Still less tolerable, draconian provisions of the RTC recapture rules promise to put the Service in the unenviable position of leveling tax burdens on the some of the disaster’s hardest hit victims. For these reasons, the Service is being asked to issue a notice or other form published guidance granting carefully targeted, temporary relief. The following is a summary of key problems and proposed solutions.

### Recapture

The recapture rules governing the RTC, if not adjusted, have the potential to impose a considerable hardship, likely unexpectedly and inappropriately, on certain Hurricane Katrina victims simply due to their participation in the RTC program. The rules governing the recapture of investment tax credits (which include the RTC) are set out in Section 50(a). Section 50(a) provides for recapture of RTC amounts claimed in the event property “is disposed of, or otherwise ceases to be investment credit property”. Treasury Regulation Section 1.48-12(f), which applies the general ITC rules of Section 50 specifically to the RTC context, provides for recapture in the event property ceases to be “section 38 property” – that is, property eligible for the investment tax. Section 50(a) also has a so-called vesting concept. In the RTC context, the result is that the amount of recapture is reduced by 20% for each full year that elapses after the rehabilitated property is placed in service. Thus there is a 100% recapture if the property is disposed of less than one year after the rehabilitation is first placed in service; an 80% recapture after one year, etc. Section 50(a) provides that recapture shall be governed by regulations prescribed by the Secretary.

Two types of recapture events are likely to confront Hurricane Katrina victims – recapture as a result of casualty and recapture as a result of foreclosure.

*Problem: Recapture from Casualty:*

As noted in the Service’s Topical Tax Brief for this subject, when a building that qualified for the RTC is destroyed by a casualty during the five year recapture period, the recapture provisions of Section 50(a) apply. The Tax Brief specifically notes that, unlike the provisions set forth in Section 42(j)(4)(E) which do not require recapture of low income housing tax credit property when it is completely destroyed but replaced within a reasonable amount of time, similarly situated RTC property would be subject to full recapture. The Topical Tax Brief further notes that “partially damaged property would not trigger recapture if the owner makes the necessary repairs and places the property back in service.” Treasury Regulations Section 1.48-12(f) and the Topical Tax Brief also provide that an RTC property will cease to be Section 38 property (thus triggering recapture) if the National Park Service de-lists the property from the National Register because the building has lost its historic character, including by reason of a casualty (see [www.irs.gov/businesses/small/industries/article/0,,id=97599,00.html](http://www.irs.gov/businesses/small/industries/article/0,,id=97599,00.html)).

*Solution:*

We request that the Service waive recapture with respect to project owners whose buildings have ceased being Section 38 property by virtue of irreparable Hurricane Katrina-related damage. Without this relief, victims hit hardest by Hurricane Katrina (in particular, victims of total casualties) will suffer the considerable additional burden of having to repay to the Treasury the amount of unvested RTCs previously claimed. We also seek confirmation that partially damaged property will not be subject to recapture if

the owner makes the necessary repairs and places the property back in service. Taxpayers would have a reasonable period of time in which to do so but no less than three years.

*Problem: Recapture from Foreclosure:*

A foreclosure, deed in lieu or other transfer in connection with the satisfaction of defaulted obligations to a lender will also trigger recapture under section 50(a).

*Solution:*

Given the increased possibility of financial hardships, defaults and foreclosures associated with the effects of the Hurricane, we request that the Service waive recapture with respect to project owners whose buildings have been disposed of for the benefit of a lender in connection with a borrower default. This temporary relief would only be available in connection with defaults arising during the next twelve months.

Substantial Rehabilitation

One of the most complex concepts found in the RTC rules is the so-called "substantial rehabilitation test". The test is set out in Section 47(c)(1)(C) and in Treasury Regulations Section 1.48-12(a)(2).

In order to be eligible for the RTC, the owner of a building must have substantially rehabilitated the building. A building has been substantially rehabilitated if the owner has incurred qualified rehabilitation expenditures in excess of the greater of \$5,000 or the adjusted basis of the building. Under current rules, however, this test is deemed satisfied only if the requisite expenditures are incurred within any 24-month period selected by the owner ending with or within the taxable year in which the RTC is claimed. Adjusted basis is measured at the beginning of that 24-month period. Special rules set out at Treasury Regulations Section 1.48-12(a)(2)(v) provide that a property owner may establish satisfaction of the substantial rehabilitation test over a 60-month period (rather than a 24-month period) but only if the rehabilitation was always *expected* to be completed in phases set forth in written architectural plans and specifications *completed before the physical work on the rehabilitation begins*. It is generally accepted that the advent of acts of God and other matters that unexpectedly delay completion of a project are not grounds for claiming the benefit of the 60-month rule.

Qualified rehabilitation expenditures include only amounts properly depreciable over the cost recovery period of the building which are made in connection with the rehabilitation of the building. In addition to hard construction costs, the following items are generally includable as qualified rehabilitation expenditures: architectural and engineering fees, site survey fees, legal expenses, insurance premiums, development fees,

construction period interest and other construction period costs that must be capitalized. The cost of acquiring a building, the cost of enlarging a building, personal property costs and site improvement costs such as sidewalks and parking lots are not included as qualified rehabilitation expenditures.

The depreciable basis of qualified rehabilitation expenditures must be reduced by the amount of the RTC; as a result only 80% of the cost of the qualified rehabilitation expenditures is subject to depreciation. The RTC is claimed by the owner of a rehabilitated building in the year in which the qualified rehabilitation expenditures are "placed in service."

Certain aspects of the substantial rehabilitation test have the potential to disqualify in-process RTC projects disrupted by Hurricane Katrina. Still other provisions of the rule may conspire to seriously diminish the effectiveness of the RTC program as a tool for helping Katrina survivors rebuild damaged buildings. Availability of the RTC for just this purpose is especially important since it is expected that many RTC project owners will prove to be under-insured when viewed against the costs they will face. These costs include not just those of restoring damaged structures but also the costs of restoring such structures in a manner that is consistent with their historic character.

*Problem: Depreciable versus Capitalizable Expenses:*

Whether the costs of repairing a building should be added to its basis or deducted as a current expense presents difficult questions of judgment and fact. These questions are exacerbated in the context of historic buildings where issues of whether the amounts spent on repairs are "excessive" or are more than the value of the property before the casualty loom large. Nonetheless, in the usual course, many repair costs will prove to be properly deductible. Deductibility typically will have a greater fiscal impact on the Treasury since it permits the immediate write-off of the costs on a current basis.

Some victims of Hurricane Katrina, however, will not benefit by this result since it will prevent those taxpayers from taking advantage of RTC-based financing for their repair work. In order for an expenditure to constitute a qualified rehabilitation expenditure for which RTCs may be claimed, the expenditure must be property chargeable to a capital account. Treasury Regulations Section 1.48-12(c)(2) describes this as amounts that are includable in computing the basis of real property under Treasury Regulations Section 1.46-3(c). A maturing and efficient market exists in the United States for syndicating RTCs in exchange for equity investments in rehabilitation projects, with many investors contributing in excess of ninety cents for each dollar of RTC allocated to them.

*Solution:*



In order to ensure that syndicated RTC equity is readily available as a source for financing Hurricane Katrina-related repair work, we recommend that the Service provide that taxpayers may choose to capitalize rehabilitation expenditures related to Hurricane Katrina repairs that are otherwise deductible. This is not a matter of allowing the taxpayer to select the more lucrative choice. In fact, in many cases, even with the 20% RTC, capitalizing rehabilitation expenses will not be as lucrative as deducting those expenses. Importantly, however, the choice will allow Hurricane Katrina victims to access the capital markets to finance repair work not covered by insurance. Allowing such a choice has precedent in several analogous contexts. These include qualified research expenses, where the research credit is available; the drilling and development costs of geothermal wells, where the business energy credit may be available; and the costs of making a business accessible to persons with disabilities, where the disabled access credit may be available.

*Problem: The 24 Month Rule:*

It is important to realize that RTC projects currently under way that are disrupted as a result of Hurricane Katrina may become disqualified for the credit. This is because the delays occasioned by the devastation may preclude such projects from satisfying the substantial rehabilitation test during the required 24-month period. In addition, new projects including, in particular, projects focusing on the restoration of hurricane-related damage are likely to suffer from delays and unusual difficulties in obtaining materials and contracting labor. These projects may similarly not be able to satisfy the substantial rehabilitation test with the 24-month period. The current optional 60-month period provided for in the rules is not available for unexpected delays. Even where delays are expected, the period is only available for a project that will be completed in phases and is subject to cumbersome documentation requirements.

*Solution:*

We recommend that the Service grant relief pursuant to which projects that were underway prior to the hurricane or which include repair of hurricane damage may have the benefit of the 60-month rule already provided for in other contexts.

*Problem: The Adjusted Basis Rule:*

As conventionally applied, an owner's rehabilitation expenditures with respect to any building must exceed the greater of \$5,000 or the adjusted basis of the building at the beginning of that 24-month period. The adjusted basis prong of this test introduces considerable unpredictability and hardship into the RTC rules in the context of a disaster. The adjusted basis of a building has virtually nothing to do with the repair needs of a building. For example, the adjusted basis of a fully depreciated building may be zero while a recently purchased, similar building may have a rather high adjusted basis. The

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former building owner need spend only \$5,000 to claim RTCs while the latter must spend amounts in excess of its high adjusted basis in order to be eligible to claim RTCs. Moreover, the impact of insurance proceeds on adjusted basis creates another difficult variable, one which will further, indiscriminately affect the ability of owners of damaged buildings to qualify for the RTC.

*Solution:*

We recommend that eligible taxpayers that are repairing hurricane-related damage be deemed to have satisfied the substantial rehabilitation test if they spend in excess of \$5,000, irrespective of their adjusted basis in the building.

Part III - Administrative, Procedural, and Miscellaneous

Relief From Certain Rehabilitation Credit Requirements in the States of Alabama, Louisiana, and Mississippi Due to Hurricane Katrina and its Aftermath

Notice 2005-\_\_\_\_\_

SECTION 1. PURPOSE

The Internal Revenue Service is granting the relief provided in this notice to taxpayers who, as a result of the devastation caused by Hurricane Katrina and its aftermath in Alabama, Louisiana, and Mississippi, are unable to comply with certain requirements of the rehabilitation credit under sections 47 and 50 of the Internal Revenue Code. This relief is being granted pursuant to the Service's authority under sections 47(c)(1)(C)(i) and 50(a).

SECTION 2. BACKGROUND

On August 29, 2005, the President declared major disasters for the States of Louisiana, Alabama and Mississippi as a result of Hurricane Katrina and its aftermath (the Events). These declarations were made under the Robert T. Stafford Disaster

Relief and Emergency Assistance Act, Title 42 U.S.C. 5121-5206 (2000 & Supp. I 2001). Subsequently, the Federal Emergency Management Agency (FEMA) has designated counties for Individual Assistance.

### SECTION 3. TIME TO RECONSTRUCT OR REPLACE

Taxpayers owning buildings as to which RTCs have been allowed that are in the recapture period and that suffer a partial casualty are not subject to recapture and loss of credit to the extent that the casualty losses are restored by appropriate reconstruction or replacement and the building is placed back in service within three years of the end of the calendar year in which such casualty occurred, or such longer period as shall be reasonable.

### SECTION 4. RELIEF FROM RECAPTURE

Because of the widespread damage to historic structures caused by the Events, the Service has determined that a taxpayer shall not be subject to recapture or loss of credit with respect to a building which, solely by reason of the Events, has suffered a total casualty or is otherwise not capable of being restored consistent with the Department of Interior's standards for rehabilitation, notwithstanding the fact such building may have ceased to be "investment credit property" under section 50 or "section 38 property" for purposes of §§ 1.48-12(d)(4) and 12(f)(3) of the Income Tax Regulations (including by reason of any related revocation of a certification of

significance or removal from the National Register of such building by the Department of Interior).

In addition, a taxpayer shall not be subject to recapture or loss of credit solely as a result of the disposition of a building (or such building otherwise ceasing to be investment credit property with respect to the taxpayer) where such disposition has been effectuated by a lender, whether by foreclosure or otherwise, in connection with a borrower default arising after the effective date hereof but prior to the one year anniversary hereof.

A taxpayer shall not be entitled to increase the basis of any property by the amount of any recapture tax that would have been owed or the amount of any adjustments to carrybacks and carryovers that would have been made but for the operation of this waiver.

The relief under this section 4 is subject to the requirements listed below.

#### REQUIREMENTS FOR RELIEF FROM CERTAIN RECAPTURE REQUIREMENTS

To qualify for the relief, the project owner must meet all of the following requirements:

(1) Major Disaster Area.

The building must be located in an Alabama, Louisiana, or Mississippi county designated for Individual Assistance by FEMA as a result of the Events.

(2) Certifications and Recordkeeping.

Affected taxpayers claiming the relief described in this section 4 of this notice

with respect to any building are required to sign a statement under penalties of perjury that the building has suffered a total casualty or is otherwise not capable of being restored consistent with the Department of Interior's standards for rehabilitation, or that a disposition with respect to the building has been effectuated by a lender, whether by foreclosure or otherwise, in connection with a borrower default arising after the effective date hereof but prior to the one year anniversary hereof, as applicable. Affected taxpayers should attach the statement to Form 4255, Recapture of Investment Credit. The taxpayer need not complete the computation steps of Form 4255 but should describe the property and should put the Disaster Designation in red ink at the top of the Form 4255. The Disaster Designation is "Hurricane Katrina".

#### SECTION 5. RELIEF FOR SUBSTANTIAL REHABILITATION

Because of the widespread damage to older and historic structures caused by the Events and delay occasioned thereby, the Service has determined that it is appropriate to temporarily suspend certain requirements under section 47(c) for buildings in the States of Alabama, Louisiana, and Mississippi damaged by the Events or for which rehabilitation has been delayed as a result of the Events. The suspension period shall cover property attributable to qualified rehabilitation expenditures placed in service for purposes of section 46(c) and the regulations thereunder (without regard to § 1.48-12(f)(2)(i)) through December 31, 2010.

During the suspension period, a taxpayer qualifying for the suspension may

choose to capitalize otherwise deductible rehabilitation expenditures incurred in connection with the rehabilitation of a building that includes restoration, rehabilitation or reconstruction of building damage caused as a result of Hurricane Katrina. If the taxpayer chooses to capitalize these costs, it shall include them in the basis of the building.

During the suspension period, taxpayers may utilize the “60-month period” provided for in section 47(c)(1)(C)(ii) rather than the “24-month period” provided for in section 47(c)(1)(C)(i) with respect to buildings covered by this Notice. The fact that the rehabilitation may not reasonably be expected to be completed in phases set forth in architectural plans and specifications completed before the rehabilitation begins will not affect the building's eligibility for the 60-month period.

In addition, during the suspension period, a building shall be treated as having been substantially rehabilitated for purposes of section 47 so long as the qualified rehabilitation expenditures during the relevant period selected by the taxpayer exceed \$5,000, irrespective of whether the amount of such expenditures exceeds the taxpayer's adjusted basis.

At the end of the suspension period, the applicable requirements of section 47(c) resume.

The relief under this Section 5 is subject to the requirements listed below.

**REQUIREMENTS FOR SUSPENSION OF CERTAIN REQUIREMENTS UNDER SECTION 47(c)**

To qualify for the suspension, the project owner must meet all of the following requirements:

(1) Major Disaster Area.

The building must be located in an Alabama, Louisiana, or Mississippi county designated for Individual Assistance by FEMA as a result of the Events.

(2) Certifications and Recordkeeping.

Affected taxpayers claiming the relief described in this section 5 of this notice are required to sign a statement under penalties of perjury that the rehabilitation includes restoration, rehabilitation or reconstruction of building damage caused as a result of the Events or rehabilitation delayed as a result of the Events. Affected taxpayers should attach the statement to their Form 3468, Investment Credit, and should put the Disaster Designation in red ink at the top of the Form 3468. The Disaster Designation is "Hurricane Katrina".

## SECTION 5. OTHER RELIEF

The Service will consider granting relief for situations not covered by this notice that are brought to its attention.

## EFFECTIVE DATE

This notice is effective August 29, 2005 (the date of the President's major disaster declaration as a result of the Events with respect to Alabama, Louisiana, and Mississippi)



## PAPERWORK REDUCTION ACT

The collection of information contained in this notice has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1907.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collection of information in this notice is in the section titled "REQUIREMENTS FOR RELIEF FROM CERTAIN RECAPTURE REQUIREMENTS," under "(2) Certifications and Recordkeeping" and "REQUIREMENTS FOR SUSPENSION OF CERTAIN REQUIREMENTS UNDER SECTION 47(c)," under "(2) Certifications and Recordkeeping." This information is required to enable the Service to verify that rehabilitation receiving the relief described in those sections of this notice are entitled to such relief in with Hurricane Katrina and its aftermath. The collection of information is required to obtain a benefit. The likely respondents are individuals, and businesses.

The estimated total annual recordkeeping burden is 125 hours.

The estimated annual burden per recordkeeper is approximately 15 minutes.

The estimated number of recordkeepers is 500.

Books or records relating to a collection of information must be retained as long

as their contents may become material to the administration of the internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

#### DRAFTING INFORMATION

The principal author of this notice is \_\_\_\_\_ of the Office of the Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice contact \_\_\_\_\_ on (202) 622-\_\_\_\_\_ (not a toll-free call).