

Internal Revenue Service  
Department of the Treasury  
Washington, DC 20224  
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Person To Contact:

Telephone Number:

Refer Reply To: CC:PSI:6 - PLR-140011-03

Date: November 06, 2003

In Re:

Taxpayer =  
Property =  
Individual =  
Company =  
V =  
W =  
D =  
N =  
Q =  
G =  
H =  
R =  
J =  
K =  
P =  
SB/SE =  
Official

Dear [redacted data]:

This letter responds to a letter dated June 17, 2003, 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.

Taxpayer is the owner of Property. Taxpayer leases the property to Company, which in turn operates both a V and a W on the Property.

Individual purchased the Property on d. At that time, Taxpayer asked local city officials whether the Property qualified for the rehabilitation credit. The city officials suggested that Taxpayer contact a company that specializes in matters relating to historical status. Specifically, the city officials recommended that Taxpayer contact N, a management company that was working with Q to have a section of the city (the "District") declared a registered historical district. The District includes the Property.

Taxpayer subsequently hired N to undertake the work to qualify the Property as an historic structure. Taxpayer provided N with all of the documents relating to the Property, including plans for the rehabilitation, prior to g. The Property was placed in service on g.

On h, N notified Taxpayer that it had failed to file the application for certification of historic status (the application) with the Department of Interior, National Park Service (NPS) prior to placing the Property in service, as required by § 1.48-12(d)(1) of the Income Tax Regulations. N mistakenly believed that it did not have to file the application because of the pending determination of historic status for the district.

Upon learning of N's error, Taxpayer hired R, a company that specializes in historic rehabilitation development services, to file the application. On j, R mailed the application to the State Historic Preservation Officer. On k, the NPS received parts 1 and 2 of the application.

Taxpayer intended to claim historic rehabilitation credit attributable to the rehabilitation. 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 h. R filed the application with the SHPO on j, and the NPS acknowledged receipt of the Taxpayer's application on k. Taxpayer submitted the request for an extension of time under § 301.9100-3 until k to file the application with the NPS.

## LAW AND ANALYSIS

Section 47(a)(2) provides that the rehabilitation credit for any taxable year includes an amount equal to 20 percent 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 Sections 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 p 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.

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 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