Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:6-PLR-115978-03
Date:
June 6, 2003

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

Taxpayer   =

Property   =

b   =
c   =
d   =
e   =
f   =
g   =
h   =
i   =
j   =
k   =
l   =
m   =
o   =
p   =
SB/SE Official =

Dear   :

        This letter responds to a letter dated February 25, 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.

Taxpayer is the owner of the Property. Taxpayer operates the first floor of the Property as a retail business and the second floor of the Property as residential rental property.

On b, Taxpayer contracted with c to design the Property in a manner that would contribute to the historic significance of the d. In so doing, Taxpayer intended to qualify for the rehabilitation credit and to attract more customers to the retail business.

On e, the State Historic Preservation Officer ("SHPO") wrote to f with several suggestions regarding the rehabilitation project. On g, Taxpayer compiled the application for certification of historic status (the "application"). h began building renovation and restoration in i, and completed the work in j. Taxpayer placed the property in service in j, and sent the application to the SHPO in k. By letter to the Department of Interior, National Park Service ("NPS") dated l, the SHPO noted that the Property "is located in and contributed to the significance of the [d]", and recommended approval of Taxpayer's request for final certification of the rehabilitation project.

Taxpayer represents that it was unaware of the requirement to file the application with the NPS before the property was placed in service, as required by § 1.48-12(d)(1) of the Income Tax Regulations. Taxpayer did speak to a certified public accountant about the rehabilitation project before the property was placed in service. However, Taxpayer first became aware of this requirement upon receipt of a letter from the NPS dated m. Taxpayer also represents that, until receipt of this letter, its project architect was also unaware of this requirement.

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 o. Taxpayer filed the application with the SHPO in k, and the NPS acknowledged receipt of the Taxpayer's application on m. Taxpayer submitted the request for an extension of time under § 301.9100-3 on February 26, 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 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.

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

cc: