

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B05

PLR-116228-18

Date:

November 09, 2018

In Re:

### LEGEND

Taxpayer =

Consultant =

Attorney =

Year X =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

State =

Property =

Dear :

This responds to a letter, dated April 23, 2018, submitted on behalf of Taxpayer, 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 claiming the rehabilitation credit under § 47(a)(2) of the Internal Revenue Code (Code).

## FACTS

According to the information submitted and representations made, Taxpayer, a limited liability company organized under the laws of State, owns Property. On Date 1, Taxpayer determined it would rehabilitate Property in a manner that would qualify for the rehabilitation credit under § 47. Taxpayer retained the services of Consultant relied upon Consultant to provide assistance in preparing and filing the application for certification of historic status of Property (Application). Taxpayer represents that Consultant is in the business of assisting taxpayers in the preparation of applications for claiming rehabilitation tax credits in State. In addition to Consultant, Taxpayer consulted with Attorney regarding Property. On Date 2, Taxpayer notified Consultant and Attorney that Taxpayer intended to commence the project to rehabilitate Property.

Taxpayer represents that Taxpayer instructed Consultant to prepare and file the Application on Taxpayer's behalf. On Date 2, Consultant acknowledged Taxpayer's request to prepare the application. On Date 3, Consultant emailed copies of Taxpayer's Application to Attorney.

On Date 4, Taxpayer placed Property in service. On Date 5, Attorney discovered that Consultant failed to file Application. On Date 6, Attorney informed Taxpayer that Consultant failed to file the Application. On Date 7, Taxpayer filed Application.

## 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 amounts paid or incurred during Year X.

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.

## CONCLUSION

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.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any provisions of the Code. In particular, we express no opinion on whether Taxpayer's rehabilitation expenditures with respect to the Property are qualified rehabilitation expenditures under § 47 or whether Taxpayer's rehabilitation of the Property otherwise meets the

requirements under § 47. Further, we express no opinion on whether any of the limited liability companies involved are partnerships for federal tax purposes, or whether any of the members of the limited liability companies are partners for federal tax purposes.

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.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

The ruling contained in this letter is based on the information submitted and representations made by 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 ruling, it is subject to verification on examination.

Sincerely,

Associate Chief Counsel  
(Passthroughs and Special Industries)

By: \_\_\_\_\_  
Nicole R. Cimino  
Chief, Branch 5  
Office of Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2):  
Copy of this letter  
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cc: