**Internal Revenue Service**

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:7
PLR-141842-07

Date:
October 11, 2007

Request for Private Letter Ruling Regarding Commercial Revitalization Deduction

Legend

Taxpayer =

City =
Company 1 =
Company 2 =
Company 3 =
Agency =
State =
Agency Official =
A =
B =
C =
$D =
E =
F =
G =
H =
SB/SE Official =

Dear

This letter responds to a letter request dated A, and subsequent correspondence, submitted on behalf of Taxpayer, relating to the proper date for placing property in service under the commercial revitalization deduction provisions of section 1400I of the Internal Revenue Code and Rev. Proc. 2003-38, 2003-1 C.B. 1017.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is a real estate professional engaged in the acquisition, development, and leasing of various real estate properties located in the City. Taxpayer files Form 1040, U.S. Individual Income Tax Return, with a taxable year ending December 31 and uses the cash method of accounting.

Taxpayer's real estate activities are conducted through the following single-member limited liability companies: Company 1, Company 2, and Company 3. Company 1 is wholly owned by Taxpayer, and Company 2 and Company 3 are wholly owned by Company 1. Company 1, Company 2, and Company 3 are treated as disregarded entities for Federal income tax purposes.

The City is designated a renewal community under § 1400E. Company 2 owns a building located at B (Building), which is within the City.

On C, the Agency, which is the commercial revitalization agency for the State, awarded under § 1400I and Rev. Proc. 2003-38 a carryover allocation of commercial revitalization expenditure amounts of $D for Company 2 for the Building. Taxpayer received notice of the carryover allocation of the commercial revitalization expenditure amount of $D for the Building from the Agency in correspondence dated E. The carryover allocation document, which is an incorporated part of that correspondence, contained all of the information described in section 6.02(2) of Rev. Proc. 2003-38, including the penalties of perjury certification statement that was signed and dated on F, by an authorized official of the Agency, Agency Official. F is in the calendar year subsequent to the calendar year in which the Agency awarded the carryover allocation for the Building.

RULING REQUESTED

Taxpayer requests the Internal Revenue Service issue the following ruling:

Taxpayer has until G, to place the Building in service in order to elect the commercial revitalization deduction under section 1400I(a) of the Code.

LAW AND ANALYSIS

Section 1400I allows a taxpayer to elect to recover a portion of the cost of a qualified revitalization building that is placed in service in a renewal community using a

more accelerated method of depreciation than is otherwise allowable under section 168 of the Code.

Section 1400I(a) provides that a taxpayer may elect either (1) to deduct one-half of any qualified revitalization expenditures chargeable to a capital account with respect to any qualified revitalization building for the taxable year in which the building is placed in service, or (2) to amortize all of these expenditures ratably over the 120-month period beginning with the month in which the building is placed in service.

The term “qualified revitalization building” is defined in section 1400I(b)(1) as meaning any building and its structural components if (A) the building is placed in service by the taxpayer in a renewal community and the original use of the building begins with the taxpayer, or (B) the building is substantially rehabilitated (within the meaning of section 47(c)(1)(C)) by the taxpayer and is placed in service by the taxpayer after the rehabilitation in a renewal community.

Pursuant to section 1400I(b)(2)(A), the term “qualified revitalization expenditure” means any amount properly chargeable to a capital account for property for which depreciation is allowable under section 168 (without regard to section 1400I) and that is (i) nonresidential real property (as defined in section 168(e)) or (ii) section 1250 property (as defined in section 1250(c)) that is functionally related and subordinate to the nonresidential real property.

Under section 1400I(d), the commercial revitalization agency for each state is permitted to allocate up to $12 million of commercial revitalization expenditure amounts with respect to each renewal community located within the state for each calendar year after 2001 and before 2010. Pursuant to section 1400I(c), the aggregate amount that may be treated as qualified revitalization expenditures with respect to any qualified revitalization building cannot exceed the lesser of (1) $10 million, or (2) the commercial revitalization expenditure amount allocated to the building under section 1400I by the commercial revitalization agency for the state in which the building is located. If the amount of the allocation exceeds the amount properly chargeable to a capital account for the qualified revitalization building, the qualified revitalization expenditures eligible for the commercial revitalization deduction election under section 1400I(a) are limited to the amount properly chargeable to a capital account for that building. A taxpayer may make a commercial revitalization deduction election for a qualified revitalization building only to the extent that qualified commercial revitalization expenditure amounts are allocated to the building.

Rev. Proc. 2003-38 provides the time and manner for states to make allocations under section 1400I of commercial revitalization expenditure amounts to a qualified revitalization building. Rev. Proc. 2003-38 also provides that a commercial revitalization agency may make a placed-in-service year allocation in accordance with section 4 of

Rev. Proc. 2003-38 or a carryover allocation in accordance with section 6 of Rev. Proc. 2003-38.

Section 6.01(1) of Rev. Proc. 2003-38 defines a carryover allocation as an allocation that is made by a commercial revitalization agency with respect to a qualified revitalization building that is placed in service by a taxpayer not later than the close of the second calendar year following the calendar year in which the allocation is made, provided the taxpayer's basis in the project of which the building is a part (as of the later of the date that is 6 months after the date that the allocation is made or the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer's reasonably expected basis in the project as of the close of the second calendar year following the calendar year in which the allocation is made. A carryover allocation is made when a carryover allocation document containing the information set forth in section 6.02(2) of Rev. Proc. 2003-38 is completed, signed, and dated by an authorized official of the commercial revitalization agency.

Because the carryover allocation that contained all of the information described in section 6.02(2) of Rev. Proc. 2003-38, including the penalties of perjury certification statement to the carryover allocation document was signed and dated by an authorized official of the Agency on F, the carryover allocation of the commercial revitalization expenditure amount of $D under section 1400I to Taxpayer (through Company 2) for the Building is treated as being made by the Agency on F, pursuant to section 6.02(1) of Rev. Proc. 2003-38.

CONCLUSION

Based solely on the Facts and representations and the relevant law and analysis set forth above, we conclude that:

Taxpayer (through Company 2) has until G, to place the Building in service in order to elect the commercial revitalization deduction under § 1400I(a) for the Building, provided the Building is a qualified revitalization building under § 1400I(b)(1) and Taxpayer's basis (through Company 2) in the Building as of H, is more than 10 percent of Taxpayer's reasonably expected basis (through Company 2) in the Building as of G, as required by section 6.01(1) of Rev. Proc. 2003-38.

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.

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. Specifically, no opinion is expressed or implied on: (i) whether the Building is a qualified revitalization building; (ii) whether Taxpayer's basis (through Company 2) in the Building as of H, is more than 10 percent of Taxpayer's reasonably

expected basis (through Company 2) in the Building as of G; (iii) the amount of Taxpayer's reasonably expected basis (through Company 2) in the Building as of G; or (iv) what costs of the Building constitute qualified revitalization expenditures.

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 appropriate SB/SE Official.

Sincerely,

Kathleen Reed

Kathleen Reed
Chief, Branch 7
Office of Associate Chief Counsel
(Income Tax and Accounting)

Enclosures (2)
copy of this letter
copy for section 6110 purposes