



TaxNewsFlash

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Notice 2020-58: Rehabilitation credit under section 47, deadline relief (COVID-19)

The IRS today released an advance version of Notice 2020-58 to provide taxpayers additional time—through March 31, 2021—to satisfy the “substantial rehabilitation test” under the rehabilitation credit. This additional time is being provided in response to the coronavirus (COVID-19) pandemic.

Read [Notice 2020-58](#) [PDF 23 KB]

Background

In general, projects eligible for a rehabilitation credit for qualified rehabilitation expenditures (QREs) incurred in connection with the rehabilitation of a qualified rehabilitated building (QRB) must satisfy the “substantial rehabilitation test” within a 24-month or 60-month period.

The 2017 tax law (Pub. L. No. 115-97, the law that is often referred to as the “Tax Cuts and Jobs Act” (TCJA)) repealed the 10% credit for pre-1936 buildings and made a modification to the 20% credit for certified historic structures, generally for amounts paid or incurred after 2017. Specifically, the credit for certified historic structures remained at 20% but must be claimed ratably over a five-year period beginning in the tax year in which a qualified rehabilitated structure is placed in service.

The 2017 law included a transition rule for QREs incurred with respect to either a certified historic structure or a pre-1936 building, with respect to any building owned or leased at all times on and after January 1, 2018, if the 24-month period selected by the taxpayer or the 60-month period selected by the taxpayer for phased rehabilitation, begins no later than the end of the 180-day period beginning on the date of the enactment of the TCJA. In such case, the modifications made to the rehabilitation credit provisions apply to such expenditures paid or incurred after the end of the tax year in which such 24-month or 60-month period ends.

Deadline relief provided by Notice 2020-58

Notice 2020-58 allows taxpayers that have a measuring period under the substantial rehabilitation test ending on or after April 1, 2020, and before March 31, 2021, now have until March 31, 2021, to satisfy

the test. The deadline relief also applies to the substantial rehabilitation test for qualifying under the TCJA transition rule.

Accordingly, if the 24- or 60-month measuring period in which the requisite amount of QREs must be paid or incurred in order to satisfy the substantial rehabilitation test for a building originally ends on or after April 1, 2020, and before March 31, 2021, the last day of the 24- or 60-month measuring period for a taxpayer to incur the requisite QREs with respect to the building is postponed to March 31, 2021. This means that a taxpayer may have a measuring period that is longer than 24 or 60 months.

For purposes of taxpayers subject to the TCJA transition rule, if the 24- or 60-month measuring period in which the requisite amount of QREs must be paid or incurred in order to satisfy the substantial rehabilitation test for a building originally ends on or after April 1, 2020, and before March 31, 2021, the last day of the 24-month or 60-month measuring period for a taxpayer to pay or incur the requisite QREs with respect to the building is postponed to March 31, 2021. Thus, if these "requisite QREs" are paid or incurred by March 31, 2021, the TCJA transition rule allows the rules of former section 47 allowing the 10% and 20% credits in a single year to apply to QREs paid or incurred with respect to such building in the tax year in which the 24- or 60-month measuring period (the last day of which is postponed by Notice 2020-58) ends. In addition, the amendments made by provisions of the TCJA, under which only the 20% credit is allowed over five years, apply to QREs paid or incurred with respect to such building in succeeding tax years.

The IRS previously issued Notice 2020-23 that provided additional time for performing certain time-sensitive actions—including completing a substantial renovation under the rehabilitation tax credit — that were otherwise due to be performed on or after April 1, 2020, and before July 15, 2020. Read [TaxNewsFlash](#)

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