

UNITED STATES TAX COURT  
 WASHINGTON, DC 20217

130 IONIA, LLC, ANDREW T. WINKEL	)	
TRUST U/A/D JANUARY 30, 2008, TAX	)	
MATTERS PARTNER,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 4901-16
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

**ORDER**

According to respondent, certain property subject to the conservation easement deduction here in dispute, “is not a historical building or structure listed in the National Register”. Consequently, as respondent views the matter, the subject property is not described in I.R.C. §170(h)(4)(C)(i), and, if only for that reason, petitioner is not entitled to the deduction.

A fair reading of petitioner’s submissions suggests that petitioner agrees that unless the property is listed in the National Register, the deduction is properly disallowed. According to petitioner, however, “the building is listed in the National Register”.

As characterized by petitioner, the “question is simple; is \* \* \* [the property] listed in the National Register”. The question might be simple to a person with “knowledge, skill, experience, training, or education”, see Fed. R. Evid. 702, with respect to the National Register, but the question is not so simple to allow for a finding based upon judicial notice, see Fed. R. Evid. 201. In the absence of a stipulation, expert opinion might be necessary to resolve the dispute between the parties on the point. So far, neither party has submitted anything that would qualify as such that would conclusively answer the question.

Because the unanswered question involves a “genuine dispute” between the parties as to a “material fact”, see Rule 121(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that respondent’s motion for partial summary judgment, filed March 24, 2017, is denied.

**(Signed) Lewis R. Carluzzo**  
**Special Trial Judge**

Dated: Washington, D.C.  
May 9, 2018