

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date:
January 12, 2009

LEGEND

Taxpayer:

a:
b:
c:
d:

Dear :

We received a letter from your authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 59(e) of the Internal Revenue Code for the a, b, c and d taxable years. This letter responds to that request.

According to the information submitted, Taxpayer timely filed its income tax returns for the a, b, c and d taxable years. A duly authorized officer of Taxpayer was responsible for the preparation and filing of Taxpayer's returns. However, the officer failed to make the election under § 59(e).

Section 59(e) provides an optional write-off of certain tax preferences over an applicable period. Section 59(e)(4) provides that an election may be made under § 59(e)(1) with respect to any portion of any qualified expenditure.

Section 1.59-1(b)(1) provides that an election under § 59(e) can only be made by

attaching a statement to the taxpayer's income tax return (or amended return) for the taxable year in which the amortization of the qualified expenditures subject to the § 59(e) election begins. The statement must be filed no later than the date prescribed by law for filing the taxpayer's original income tax return (including any extensions of time) for the taxable year in which the amortization of the qualified expenditures subject to the § 59(e) election begins.

Section 301.9100-1(c) provides that the Commissioner, in an exercise of discretion, may grant a reasonable extension of time under rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but not more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H and I.

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 the election under § 301.9100-1(a).

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

Based on the facts and representations submitted with your request, we have determined that the requirements of section 301.9100 have not been satisfied with respect to the a taxable year as the statute of limitations for the a taxable year is closed.

Based on the facts and representations submitted with your request, we have determined that the requirements of section 301.9100-3 have been satisfied with respect to the b, c and d taxable years. Therefore, an extension of time is granted, until 60 days from the date of this ruling, for making an election under § 59(e) for the taxable years described above.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion concerning whether the expenditures are qualified expenditures under § 59(e)(2).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representatives. A copy of this ruling must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Curt Wilson
Associate Chief Counsel
Passthroughs & Special Industries

cc: