

Section 1.528-8(a) of the Income Tax Regulations provides that a separate election to be treated as a homeowners association under § 528 must be made for each taxable year. This election must be made by filing a properly completed Form 1120-H (or such other form as the Secretary may prescribe).

Section 1.528-8(b) provides that for taxable years ending after December 30, 1976, the election must be made not later than the time, including extensions, for filing an income tax return for the year in which the election is to apply.

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.

Based on the facts and representations submitted with your request, we have determined that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied with respect to taxable years a through b. Therefore, an extension of time is granted, until 120 days from the date of this ruling, to make the elections required on Forms 1120-H for Taxpayer to be treated as a homeowners association under § 528 with respect to taxable years a through b.

We note, however, that the burden is upon Taxpayer to produce, upon request, any records necessary to establish to the satisfaction of the Service that Taxpayer meets all of the requirements of § 528(c)(1).

Except as expressly ruled 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, or under any other provisions of the Code. Moreover, we express no opinion concerning the assessment of interest, additions to tax, additional amounts, or penalties for failure to file an income tax return with respect to any year. Specifically, we express or imply no opinion on whether Taxpayer qualifies as a homeowners association under § 528(c).

A copy of this letter 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.

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.

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 & Special Industries)

Enclosures (2)
Copy of this letter
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