Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:CORP:B01
PLR-119755-24

Date:
April 18, 2025

LEGEND

Taxpayer	=
Investment Advisor	=
Fund 2	=
Fund 3	=
Fund 4	=
Fund 5	=
Transferee 1	=
Transferee 2	=
Date 1	=
Company Official	=
Tax Professional 1	=

Tax Professional 2 =

Business A =
US Tax Return =

This letter responds to a letter dated October 25, 2024, and subsequent correspondence, submitted by your authorized representative, requesting an extension of time under Treas. Reg. § 301.9100-3 of the Procedure and Administration Regulations to file an election. The extension is being requested to allow Taxpayer to file an election under section 362(e)(2)(C) and Treas. Reg. § 1.362-4(d). More specifically, Taxpayer is requesting an extension of time to file an election statement as described in Treas. Reg. § 1.362-4(d)(3)(i) (the "Section 362(e)(2)(C) Statement"). The material information is summarized below.

Taxpayer (also referred to as "Fund 1"), Fund 2, Fund 3, Fund 4 and Fund 5 (collectively the "Funds") and Transferee 1 and Transferee 2 (collectively the "Transferees") are affiliates of Investment Advisor. The Transferees elected to be treated as corporations for federal income tax purposes. The Funds and the Transferees engage in Business A.

Each of the Funds was required to file a U.S. Tax Return for the relevant tax year. For the relevant tax year, each of the Funds had one or more direct or indirect partners who were U.S. Persons as defined in section 7701(a)(30) and would be subject to federal income taxation on the gain or loss on the disposition of the property.

On Date 1, Fund 1, Fund 2, Fund 3, and Fund 4 each transferred assets related to Business A to Transferee 1 ("Transfer 1"). Also on Date 1, Fund 5 transferred assets related to Business A to Transferee 2 ("Transfer 2"). Taxpayer represented (i) that both Transfer 1 and Transfer 2 qualified under section 351 and (ii) at the time of the Transfers, the property transferred, in each Transfer 1 and Transfer 2, had an aggregate tax basis exceeding the fair market value of such property.

Section 362(e)(2)(A) generally provides that if property is transferred to a corporation as a capital contribution or in an exchange to which section 351 applies and the aggregate adjusted basis of the transferred property would, but for that provision, exceed the fair market value of such property immediately after the transaction, then the transferee corporation's basis in such property shall not exceed the fair market value of such property.

Under section 362(e)(2)(C), however, the transferor and transferee may make a joint election to reduce the transferor's basis in the stock received to its fair market value, and no reduction of the transferee's basis in the property received will be required. Treas. Reg. § 1.362-4(d)(1) allows the section 362(e)(2)(C) election to be made protectively and will have no effect to the extent that the property transferred in the transaction is determined not to be subject to section 362(e)(2) and Treas. Reg. §1.362-4(d)(1).

Section 362(e)(2)(C) provides that such election shall be made at such time and in such form and manner as the Secretary may prescribe, and once made, shall be irrevocable.

In order to make the election under section 362(e)(2)(C), Treas. Reg. § 1.362-4(d)(1)(i) requires that prior to the filing of the Section 362(e)(2)(C) Statement, the transferor and the acquiring corporation enter into a written, binding agreement to elect to apply section 362(e)(2)(C), and Treas. Reg. § 1.362-4(d)(1)(ii) requires that the Section 362(e)(2)(C) Statement be filed in accordance with the provisions of Treas. Reg. § 1.362-4(d)(3).

Treas. Reg. § 1.362-4(d)(3)(ii)(A) provides that if the transferor is required to file a U.S. federal income tax return, the Section 362(e)(2)(C) Statement is filed by the transferor with their timely filed (including extensions) original U.S. returns for their taxable years in which the transfer occurred.

The Section 362(e)(2)(C) Statement was required to be filed on or with each Taxpayer's timely filed (including extensions) tax return for Taxpayer's taxable year in which the transfer occurred. For various reasons, however, Taxpayer failed to file the Section 362(e)(2)(C) Statement in a timely manner. Taxpayer has represented that it does not seek to alter a return position for which an accuracy-related penalty has been or could be imposed under section 6662 at the time Taxpayer requested relief.

Under Treas. Reg. § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six 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.

Treas. Reg. §§ 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Treas. Reg. § 301.9100-1(a). Treas. Reg. § 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Treas. Reg. § 301.9100-3(a).

The time for filing the Section 362(e)(2)(C) Statement is fixed by the regulations (*i.e.*, Treas. Reg. § 1.362-4(d)(3)(ii)). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-3 to grant an extension of time for Taxpayer to file the Section 362(e)(2)(C) Statement, provided Taxpayer acted reasonably and in good faith, the requirements of Treas. Reg. §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the government.

Information, affidavits, and representations submitted by Taxpayer, Company Official, Tax Professional 1, and Tax Professional 2 explain the circumstances surrounding the failure to timely file the Section 362(e)(2)(C) Statement. The information establishes that the Taxpayer reasonably relied on Company Official and qualified tax professionals in failing to timely file the Section 362(e)(2)(C) Statement and the request for relief was filed before the failure to timely file the Section 362(e)(2)(C) Statement was discovered by the Internal Revenue Service. See Treas. Reg. § 301.9100-3(b)(1)(i).

Based on the facts and information submitted, including the affidavits submitted and the representations made, we conclude that Taxpayer acted reasonably and in good faith, the requirements of Treas. Reg. §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, an extension of time is granted under Treas. Reg. § 301.9100-3, until 75 days from the date on this letter, for Taxpayer to file the Section 362(e)(2)(C) Statement regarding Transfer 1, in the manner described in Treas. Reg. § 1.362-4(d)(3). 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 the return that provides the date and control number (PLR-119755-24) of this letter ruling.

This extension of time is conditioned on the federal tax liability (if any) of any relevant party not being lower, in the aggregate, for all years to which the section 362(e)(2)(C) election applies than it would have been if the Section 362(e)(2)(C) Statement had been timely filed (taking into account the time value of money). No opinion is expressed as to any tax liabilities for the years involved. A determination thereof will be made by the Director's office upon audit of the federal income tax returns involved.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction discussed in this letter. Specifically, no opinion is expressed concerning the basis or fair market value of any asset, whether Transfer 1 or Transfer 2 are described in section 351, or whether Taxpayer is substantively entitled to make a section 362(e)(2)(C) election. More specifically, no opinion is expressed or implied as to whether section 362(e)(2) applies, and the extent it applies to the transfer because section 362(e)(1) could apply to the extent that there are foreign partners in the funds. In addition, no opinion is expressed as to the tax effects or consequences of filing the Section 362(e)(2)(C) Statement late under the provisions of any other section of the Code or regulations, or as to the tax treatment of any conditions existing at the time of, or effects resulting from, filing the Section 362(e)(2)(C) Statement late that are not specifically set forth in the above ruling.

For purposes of granting relief under Treas. Reg. § 301.9100-3, we have relied on certain statements and representations that Taxpayer, Company Official, Tax

Professional 1 and Tax Professional 2 made under penalties of perjury. However, the Director should verify all essential facts. Moreover, notwithstanding that an extension is granted under Treas. Reg. § 301.9100-3 to file the Section 362(e)(2)(C) Statement, any penalties and interest that would otherwise be applicable still apply.

This letter 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.

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Jonathan M. Kushner
Senior Technician reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)

cc: