Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-101571-25

Date:
April 24, 2025

Re:

Request for Extension of Time to Make the Election Not to be Treated as a Tax-Exempt Controlled Entity

Legend

A	=
B	=
Date1	=
Taxable Year 1	=
Taxable Year 2	=
State Z	=
Date2	=
Date3	=
X	=
Tax-exempt Entity	=
Advisor	=
Partnership N	=
Partnership Q	=

Dear :

This letter ruling responds to a letter dated Date1, and subsequent correspondence, submitted by A and B. A and B request an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make the election under § 168(h)(6)(F)(ii) of the Internal Revenue Code (Code) for, respectively, Taxable Year 1, and Taxable Year 2. Hereinafter, A and B will be collectively referred to as "Taxpayer".

This letter ruling is being issued electronically in accordance with section 7.02(5) of Rev. Proc. 2024-1, 2024-1 I.R.B. 1, 34.

FACTS

Taxpayer represents the facts are as follows:

Taxpayer is a limited liability company, treated as a corporation for federal income tax purposes, and formed under the laws of State Z. A uses the accrual method as its overall accounting method and its annual accounting period runs from Date2 to Date3. B uses the accrual method as its overall method of accounting and the calendar year as its annual accounting period. Taxpayer is engaged in the business of X. Tax-exempt Entity wholly owns Taxpayer. Taxpayer represents that it is therefore a tax-exempt controlled entity within the meaning of § 168(h)(6)(F)(iii).

A is the managing general partner of Partnership N. B is the general partner of Partnership Q. Partnership N placed in service a project in Taxable Year 1. Partnership Q placed in service a project in Taxable Year 2. The respective partnership agreements for Partnership N and Partnership Q stated:

> No portion of the project is or will be treated as "tax exempt use property" as defined in Section 168(h) of the Code. The administrative general partner will make the election permitted under Section 168(h)(6)(F) of the Code.

A and B engaged Advisor to prepare their Taxable Year 1 and Taxable Year 2 federal income tax returns (collectively, the "Tax Returns"), respectively, and Advisor was aware that Taxpayer intended to make an election under § 168(h)(6)(F)(ii) for Taxable Year 1 and Taxable Year 2. Advisor prepared and timely filed Taxpayer's Tax Returns and inadvertently excluded the § 168(h)(6)(F)(ii) elections.

After Taxpayer's Tax Returns were filed, a limited partner of Partnership N and a limited partner of Partnership Q requested supporting documentation regarding Taxpayer's elections under § 168(h)(6)(F)(ii) on the Tax Returns, respectively. In preparing the responses, Advisor discovered that Advisor inadvertently failed to file the § 168(h)(6)(F)(ii) elections by the due date (including extensions) for Taxpayer's Tax Returns. Further, Advisor informed A and B that their federal income tax returns for taxable years subsequent to Taxable Year 1 and Taxable Year 2, respectively, were

prepared presuming that valid § 168(h)(6)(F)(ii) elections were filed for the Tax Returns.

Advisor communicated its error to Taxpayer. As a result, Taxpayer submitted its letter dated Date1, requesting this letter ruling.

Finally, Taxpayer represents that, in requesting this letter ruling, it acted reasonably and in good faith because Taxpayer reasonably relied on the expertise of Advisor, and that granting an extension of time to make the election under § 168(h)(6)(F)(ii) will not prejudice the interests of the Government.

RULING REQUESTED

A and B request that the Internal Revenue Service grant it an extension of time under §§ 301.9100-1 and 301.9100-3 to file the election under § 168(h)(6)(F)(ii) for Taxable Year 1 and Taxable Year 2, respectively.

LAW

Section 167(a) provides that there shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear, and obsolescence of property used in the trade or business, or in the production of income. The depreciation deduction provided by § 167(a) for tangible property placed in service after 1986 is generally determined under § 168. Under § 168(g)(1)(B), the alternative depreciation system must be used for any tax-exempt use property as defined in § 168(h).

Section 168(h)(6)(A) provides that, for purposes of § 168(h), if any property which is not tax-exempt use property is owned by a partnership having both a tax-exempt entity and a non-tax-exempt entity as partners and any allocation to the tax-exempt entity is not a qualified allocation, then an amount equal to such tax-exempt entity's proportionate share of such property is treated as tax-exempt use property.

Section 168(h)(6)(F)(i) provides that, in general, any tax-exempt controlled entity is treated as a tax-exempt entity for purposes of § 168(h)(5) and (6). Under § 168(h)(6)(F)(iii)(I), a corporation (without regard to that subparagraph and § 168(h)(2)(E)) constitutes a "tax-exempt controlled entity" if 50-percent or more (in value) of the corporation's stock is held by one or more tax-exempt entities (other than a foreign person or entity).

Under § 168(h)(6)(F)(ii), a tax-exempt controlled entity can elect not to be treated as a tax-exempt entity. Once made, the election is irrevocable and will bind all tax-exempt entities holding an interest in the tax-exempt controlled entity. Under § 301.9100-7T(a)(1), a § 168(h)(6)(F)(ii) election must be made in accordance with the rules provided in §§ 301.9100-7T(a)(2) and (3).

Under § 301.9100-7T(a)(2)(i), a § 168(h)(6)(F)(ii) election must be made by the

due date of the tax return for the first taxable year for which the election is to be effective. Section 301.9100-7T(a)(3)(i) provides that the § 168(h)(6)(F)(ii) election must be made by attaching a statement to the tax return for the taxable year in which the election is to be effective.

Section 301.9100-1(c) provides that the Commissioner of Internal Revenue (the Commissioner) has the discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election.

Sections 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. 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 301.9100-1(b) defines a regulatory election as one whose due date is prescribed by regulations in the Federal Register, a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. Because the due date of the election is prescribed by § 301.9100-7T(a)(2)(i), the requested § 168(h)(6)(F)(ii) election is a regulatory election.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts as represented and the applicable law, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. A and B are granted an extension of 60 calendar days from the date of this letter ruling to file the election statement with the appropriate service center containing the information required by § 301.9100-7T(a)(3) for the elections to be effective in, respectively, Taxable Year 1 and Taxable Year 2.

Taxpayer must attach a copy of this letter ruling to the election statements. Further, this letter ruling should be attached to all subsequent returns (and amended returns) for all taxable years to which this letter ruling is relevant. If A or B files its amended return electronically, it may satisfy this requirement by attaching a statement to its amended return that provides the date and control number of this letter ruling. Pursuant to § 301.9100-7T(a)(3)(ii), a copy of this letter ruling and the § 168(h)(6)(F)(ii) election statement also should be attached to the Federal income tax returns of each of the tax-exempt shareholders or beneficiaries of Taxpayer.

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 a ruling, it is subject to verification on examination.

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.

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. We express no opinion regarding the tax treatment of the instant transaction under the provisions of any other sections of the Code or regulations that may be applicable, or regarding the tax treatment of any conditions existing at the time of, or effects resulting from, the instant transaction.

Pursuant to the Form 2848, *Power of Attorney and Declaration of Representative*, on file, we are sending a copy of this letter to Taxpayer's authorized representatives. We are also sending a copy of this letter ruling to the appropriate Service operating division official.

Sincerely,

Amy S. Wei
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: