Internal Revenue Service

Number: **202551001**
Release Date: 12/19/2025

Index Number: 168.00-00, 7701.00-00, 9100.00-00, 9100.04-00, 9100.31-00

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:PT&E:B03
PLR-101120-25

Date:
September 18, 2025

LEGEND

X =

A =

B =

C =

D =

State =

Partnership =

Agreement =

Project =

Advisor 1 =

Advisor 2 =

Date 1 =

Date 2 =

Tax Year =

Dear :

This letter responds to a letter dated December 9, 2024, submitted on behalf of X by its authorized representatives, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations (1) to file an election under § 301.7701-3 to be treated as an association taxable as a corporation for federal income tax purposes, and (2) to make an election under § 168(h)(6)(F)(ii) of the Internal Revenue Code ("Code") to not be treated as a tax-exempt controlled entity effective for Tax Year.

FACTS

Based on the information submitted, X is a State limited liability company formed on Date 1. X has been classified as a partnership for federal tax purposes since Date 1. Pursuant to its operating agreement, X was required to make an election to be treated as an association taxable as a corporation for federal tax purposes ("entity classification election"). X intended to make the entity classification election effective Date 2. However, X failed to file Form 8832, Entity Classification Election, electing to be classified as an association taxable as a corporation for federal tax purposes effective Date 2.

A, B, C, and D, tax-exempt entities described under § 501(c)(3), own 100 percent of X. X is a limited partner of Partnership. Partnership owns entities engaged in projects to rehabilitate buildings, including Project, which was placed in service during the Tax Year. The projects are expected to generate rehabilitation credits under § 47. Under Section 5.3 of Partnership's Agreement, X was required to make an election under § 168(h)(6)(F)(ii) to not be treated as a tax-exempt controlled entity ("§ 168(h)(6)(F)(ii) election"). To make the § 168(h)(6)(F)(ii) election, X was required to be an association taxable as a corporation.

X represents that it intended to make a § 168(h)(6)(F)(ii) election effective for the Tax Year. X emailed Advisor 1 and Advisor 2 that X intended to file the entity classification and the § 168(h)(6)(F)(ii) elections (the "elections"). Advisor 2 prepared and timely filed X's Federal income tax return for Tax Year as if the elections were duly and properly made.

After X's tax return for Tax Year was filed, Advisor 2 discovered that Advisor 1 and Advisor 2 inadvertently failed to file the elections due to a misunderstanding of Taxpayer's email. The next day, X engaged Advisor 1 to request this letter ruling.

LAW AND ANALYSIS

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 determined under § 167(a) for tangible property placed in service after 1986 generally is determined under § 168. Under § 168(g)(1)(B), the alternative depreciation system (rather than the general 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 (but for this subparagraph) is not tax-exempt use property is owned by a partnership having a tax-exempt entity and a non-exempt entity as partners and any allocation to the tax-exempt entity is not a qualified allocation, then an amount equal to the tax-exempt entity's proportionate share of such property is treated as tax-exempt use property.

Section 168(h)(6)(F)(i) provides generally that 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 "tax-exempt controlled entity" means any corporation (without regard to that subparagraph and § 168(h)(2)(E)) if more than 50 percent (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 controlled entity for purposes of §§ 168(h)(5) and (6). Such an 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), the § 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) provides the manner in which the § 168(h)(6)(F)(ii) election is made.

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under §§ 301.7701-2(b)(1), (3), (4), (5), (6), (7) or (8) (an eligible entity) can elect its classification for federal tax purposes. An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation

under § 301.7701-2(b)(2)) or a partnership. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(1) provides that except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a domestic eligible entity is (i) a partnership if it has two or more members; or (ii) disregarded as an entity separate from its owners if it has a single owner.

Section 301.7701-3(c)(1) provides, in part, that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b), or to change its classification, by filing Form 8832, Entity Classification Election, with the service center designated on Form 8832.

Section 301.7701-3(c)(1)(iii) provide that this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and no more than 12 months after the date the election is filed.

Section 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 the term “regulatory election” as including any election the due date for which is prescribed by a regulation. Because the due date of the § 168(h)(6)(F)(ii) election is prescribed in § 301.9100-7T, the election is a regulatory election. In addition, because the due date of the entity classification election is prescribed in § 301.7701-3(c), the election is a regulatory election.

Under § 301.9100-3(a) provides that requests for relief will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer—

(i) Requests relief before the failure to make the regulatory election is discovered by the Service;

(ii) Failed to make the election because of intervening events beyond the taxpayer’s control;

(iii) Failed to make the election because, after exercising due diligence, the taxpayer was unaware of the necessity for the election;
(iv) Reasonably relied on the written advice of the Service; or
(v) Reasonably relied on a qualified tax professional, and the professional failed to make, or advise the taxpayer to make, the election.

Under § 301.9100-3(b)(3), a taxpayer is considered to have not acted reasonably and in good faith if the taxpayer—

(i) Seeks to alter a return position for which an accuracy-related penalty could be imposed under § 6662 at the time the taxpayer requests relief, and the new position requires a regulatory election for which relief is requested;
(ii) Was fully informed of the required election and related tax consequences, but chose not to file the election; or
(iii) Uses hindsight in requesting relief. If specific facts have changed since the original deadline that make the election advantageous to the taxpayer, the Service will not ordinarily grant relief.

Section 301.9100-3(c)(1) provides that the Service will grant a reasonable extension of time only when the interests of the Government will not be prejudiced by the granting of the relief. Section 301.9100-3(c)(1)(i) provides that the interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made. Under § 301.9100-3(c)(1)(ii), the interests of the Government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made, or any taxable year affected by the election had it been timely made, are closed by the period of limitations on assessment under § 6501(a) before the taxpayer's receipt of a ruling granting relief under § 301.9100-3.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, we grant X an extension of time of 120 days from the date of this letter to file Form 8832 with the appropriate service center to elect to be treated as an association taxable as a corporation for federal tax purposes effective Date 2. A copy of this letter should be attached to the Form 8832.

In addition, based solely on the facts submitted and the representations made, we conclude that X satisfied the requirements of §§ 301.9100-1 and 301.9100-3 for granting an extension of time to file a § 168(h)(6)(F)(ii) election. X is granted an extension of time of 120 days from the date of this letter to file the § 168(h)(6)(F)(ii) election statement with its Form 1120 for the Tax Year containing the information required under § 301.9100-7T(a)(3) for the election to be effective for the Tax Year. X

must attach a copy of this letter to the § 168(h)(6)(F)(ii) election statement. In addition, pursuant to § 301.9100-7T(a)(3)(ii), a copy of this letter and the § 168(h)(6)(F)(ii) election statement must be attached to the federal income tax returns of A, B, C and D.

These rulings are contingent on X filing all required returns for all relevant years consistent with the requested relief granted in this letter. A copy of this letter should be attached to any such returns for the taxable years affected. Alternatively, if X files its returns electronically, it may satisfy this requirement by attaching a statement to its returns that provides the date and control number of this letter.

Except as provided herein, we express or imply no opinion 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 the federal tax consequences of X's investment in Partnership, including whether the projects were eligible for the rehabilitation credits. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

We express no opinion concerning interest, additions to tax, additional amounts or penalties with respect to any taxable year that may be affected by these rulings. For example, we express or imply no opinion as to whether a taxpayer is entitled to relief from any penalty on the basis that the taxpayer had reasonable cause for failure to timely file any income tax or information returns.

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 requested rulings, it is subject to verification on examination.

These rulings are directed only to the taxpayer requesting them. Section 6110(k)(3) of the Code provides that they may not be used or cited as precedent.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representatives.

Sincerely,

Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

By: _____
Elizabeth V. Zanet
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure:
Copy of this letter for § 6110 purposes

cc: