Internal Revenue Service

Number: **202551029**
Release Date: 12/19/2025

Index Number: 468A.00-00, 9100.00-00

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:ECE:B2
PLR-103521-25
PLR-103526-25
Date:
September 24, 2025

In Re:

LEGEND

Taxpayer	=
Parent	=
Plant	=
Location	=
State 1	=
State 2	=
State 3	=
State 4	=
State 5	=
Commission A	=
Commission B	=
Commission C	=
Commission D	=
Commission E	=
Independent Study	=
Method	=
Order 1	=
Order 2	=
Order 3	=
Order 4	=
Date 1	=

Date 2 =
Date 3 =
Date 4 =
Date 5 =
Date 6 =
Date 7 =
Year 1 =
Year 2 =
Year 3 =
Year 4 =
Year 5 =
Year 6 =
Year 7 =
Year 8 =
a =
b =
c =
d =
e =
f =
g =
h =
i =
j =
k =
l =
m =
n =
o =
p =
q =
x =
y =
Fund =

Department 1 =
Department 2 =
Director =

Dear :

This letter responds to Taxpayer's ruling request, dated Date 1, and supplemental correspondence, dated Date 2. Taxpayer has requested the following rulings:

(1) An extension of time under § 301.9100-3 of the Procedure and Administration Regulations to withdraw an excess contribution made to the qualified nuclear decommissioning fund maintained in connection with Plant, pursuant to § 1.468A-5(c)(2) of the Income Tax Regulations.[1]

(2) An elective review of a revised schedule of ruling amounts pursuant to § 1.468A-3(f)(2) to reflect the adjustment to its decommissioning collections.

FACTUAL BACKGROUND

Taxpayer represents the following:

Taxpayer is an investor-owned utility incorporated in State 2. Taxpayer, along with an affiliate incorporated in State 5, is engaged in the operation of an electric public utility system involving the generation, transmission, distribution, and sale of electric energy and the distribution and sale of natural gas in State 1, State 2, State 3, State 4, and State 5. Taxpayer files a consolidated federal income tax return with its Parent on a calendar-year basis using the accrual method of accounting.

Taxpayer owns x percent of Plant, which is situated at Location. With respect to the decommissioning costs related to Plant which are included in Taxpayer's cost of service for ratemaking purposes, Taxpayer is subject to regulation by Commission A (a percent), Commission B (b percent), Commission C (c percent), Commission D (d percent), and Commission E (e percent).

On Date 3, the Service issued a ruling approving Taxpayer's proposed revised schedule of ruling amounts for Plant under section 468A ("Prior Ruling").

In Year 1, Taxpayer undertook Independent Study and based on the results of Independent Study, requested revisions to the amount of decommissioning costs includable in the cost of service for ratemaking purposes.

On Date 4, Commission A issued Order 1 approving Taxpayer's estimated decommissioning costs to be included in Taxpayer's cost of service beginning Year 2 for ratemaking purposes following Commission A's mandatory periodic review of Taxpayer's decommissioning costs. Order 1 approves and relies upon assumptions

[1] Unless otherwise specified, all "section" references will be to the Internal Revenue Code, the Income Tax Regulations, or the Procedure and Administration Regulations.

provided in Independent Study. Similarly, on Date 5, Commission B issued Order 2 approving Taxpayer's adjustment to base rates for Year 2 and Year 3. Both Order 1 and Order 2 reduced the nuclear decommissioning accruals to be contributed to Fund. On Date 6, Commission C also issued Order 3 authorizing Taxpayer to include decommissioning costs for Plant in Taxpayer's costs of service beginning Year 3.

On Date 7, Commissioner D issued Order 4 requiring Taxpayer to collect additional funds from State 3 customers for decommissioning purposes and to contribute such amounts to Fund. This resulted in an overfunding in the amount of $y to Fund under Prior Ruling in Year 4.

The total estimated cost of $f (in Year 1 dollars) was used as a base cost for decommissioning the Plant. The total estimated future cost of decommissioning the Plant is $g. It is estimated that substantial decommissioning costs will first be incurred in Year 5 and that decommissioning will be substantially complete at the end of Year 6. The methodology used to convert Year 1 dollars to future dollars was by escalating the estimated costs, taking into account estimates of inflation and escalation, at a rate of h percent for the labor component of decommissioning and a rate of i percent for the non-labor components. The assumed after-tax rate of return to be earned by the amount collected for decommissioning is j percent through Year 5 and k percent thereafter.

Prior to Year 7, Taxpayer's Department 1 managed the nuclear decommissioning accrual and provided Taxpayer's Section 468A election statements to Taxpayer's Department 2, which was responsible for the preparation and filing of the income tax return.

After Taxpayer received Order 4, which was the first order it received regarding adjustments to its decommissioning accruals, Taxpayer's Department 1 failed to update the schedule of ruling amounts to reflect the actual amounts contributed under Order 4. Taxpayer's Department 2 was not informed that the nuclear accruals mandated by regulators had changed and that amounts in excess of the authorized ruling amounts under Prior Ruling had been contributed to Fund.

In Year 7, Taxpayer's Department 2 first became aware of the discrepancy in the amounts reflected on the section 468A election statement and the amount of contributions deducted on the federal income tax return when discussing contribution amounts during preparation of Taxpayer's Year 3 federal income tax return.

Taxpayer relied on its internal tax professionals to prepare and review its income tax return. Taxpayer's Department 2 had knowledge of the section 468A requirements and participated in the requests for Prior Ruling. Taxpayer represents that due to miscommunication between different departments, adjustment to remote work environment during the COVID-19 pandemic, and turnover and retirements of personnel who were knowledgeable and previously involved in nuclear decommissioning trusts,

Taxpayer failed to attach a section 468A election statement that reflects the actual amounts contributed to Fund and failed to timely withdraw amounts in excess of Prior Ruling amounts.

LAW AND ANALYSIS

1. Ruling #1: Request for Extension of Time under § 301.9100-3

Section 468A(a), as amended by the Energy Tax Incentives Act of 2005 (the Act), Pub. L. 109-58, 119 Stat. 594, allows an electing taxpayer to deduct payments made to a nuclear decommissioning reserve fund.

Section 468A(b) limits the amount that may be paid into the nuclear decommissioning fund in any year to the ruling amount applicable to that year. Prior to the changes made by the Act, the deduction was limited to the lesser of the amount included in the utility's cost of service for ratemaking purposes or the ruling amount. Generally, as a result, only regulated utilities could take advantage of section 468A. The Act's amendment of section 468A eliminated the cost-of-service limitation. Accordingly, decommissioning costs of an unregulated nuclear power plant may now be funded by deductible contributions to a qualified nuclear decommissioning fund.

Section 468A(d)(1) provides that no deduction shall be allowed for any payment to the nuclear decommissioning fund unless the taxpayer requests and receives from the Secretary a schedule of ruling amounts. The “ruling amount” for any taxable year is defined under § 468A(d)(2) as the amount which the Secretary determines to be necessary to fund the total nuclear decommissioning cost of that nuclear power plant over the estimated useful life of the plant. This term is further defined to include the amount necessary to prevent excessive funding of nuclear decommissioning costs or funding of these costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate.

Section 1.468A-5(a)(1)(i) provides that a nuclear decommissioning fund must be established and maintained at all times in the United States pursuant to an arrangement that qualifies as a trust under State law. Section 1.468A-5(a)(2) provides that except as otherwise provided in § 1.468A-8 (relating to special transfers under section 468A(f)), a nuclear decommissioning fund is not permitted to accept any contributions in cash or property other than cash payments with respect to which a deduction is allowed under section 468A(a) and § 1.468A-2(a).

Section 1.468A-5(c)(2) provides that a nuclear decommissioning fund will not be disqualified under paragraph (c)(1) of that section by reason of an excess contribution or the withdrawal of an excess contribution if the withdrawal is performed before the later of the date the tax return is due for the taxable year to which the contribution relates or 30 days after the date the taxpayer receives the ruling amount.

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 an 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(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make certain regulatory elections. Section 301.9100-1(b) defines a "regulatory election" as an election with a due date that is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice or announcement published in the Internal Revenue Bulletin.

Section 301.9100-3(a) provides that requests for relief under § 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.

Section 301.9100-3(b)(1) provides, in part, that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer requests relief before the failure to make the regulatory election is discovered by the Service or reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Section 301.9100-3(b)(3) provides that a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer: (i) seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under § 6662 at the time the taxpayer requests relief (taking into account § 1.6664-2(c)(3)) and the new position requires or permits a regulatory election for which relief is requested, (ii) was informed in all material respects 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 a taxpayer, the Service will not ordinarily grant relief.

Section 301.9100-3(c)(1)(i) provides that the interests of the government are prejudiced if granting relief would result in the 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. Section 301.9100-3(c)(1)(ii) provides that the interests of the government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment.

Taxpayer's election is a regulatory election, as defined under § 301.9100-1(b), because the due date of the election is prescribed in § 1.468A-5(c)(2).

Taxpayer represents that it requested relief before the failure to make the regulatory election was discovered by the Service and that it reasonably relied on qualified tax professionals, and the tax professionals failed to make, or advise Taxpayer to make, the election. Thus, under §§ 301.9100-3(b)(1)(i) and (v), Taxpayer is deemed to have acted reasonably and in good faith. Taxpayer has also represented that none of the circumstances listed in § 301.9100-3(b)(3) apply.

Based on the information and representations made by Taxpayer, granting an extension of time to file the election will not prejudice the interests of the government under § 301.9100-3(c)(1). Taxpayer has represented that granting relief would not result in a lower tax liability in the aggregate for all taxable years affected by the election than Taxpayer would have had if the election had been timely made (taking into account the time value of money). Furthermore, Taxpayer has represented that the taxable year in which the regulatory election should have been made and any taxable years that would have been affected had it been timely made, are not closed by the period of assessment.

Based solely on the facts and representations submitted, we consider Taxpayer's ruling request, dated Date 1, to be a timely request for relief under §§ 301.9100-1 and 301.9100-3 with withdraw excess contributions made to the qualified nuclear decommissioning fund, and that those requirements under §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer's request for an extension of time to withdraw excess contributions and any earnings on that amount is granted.

2. Ruling #2: Revised schedule of ruling amounts under § 1.468A-3(f)(2)

Section 1.468A-1(a) provides that an eligible taxpayer may elect to deduct nuclear decommissioning costs under § 468A of the Code. An “eligible taxpayer,” as defined under § 1.468A-1(b)(1) of the regulations, is a taxpayer that has a “qualifying interest” in any portion of a nuclear power plant. A qualifying interest is, among other things, a direct ownership interest.

Section 1.468A-2(b)(1) provides that the maximum amount of cash payments made (or deemed made) to a nuclear decommissioning fund during any taxable year shall not exceed the ruling amount applicable to the nuclear decommissioning fund for such taxable year. The limitation on the amount of cash payments for purposes of § 1.468A-2(b)(1) does not apply to any “special transfer” permitted under § 1.468A-8.

Section 1.468A-3(a)(1) provides that, in general, a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying annual payments that, over the taxable years remaining in the “funding period” as of the date the schedule first applies,

will result in a projected balance of the nuclear decommissioning fund as of the last day of the funding period equal to (and in no event more than) the “amount of decommissioning costs allocable to the fund”.

Section 1.468A-3(a)(2) provides that, to the extent consistent with the principles and provisions of this section, each schedule of ruling amounts shall be based on reasonable assumptions concerning the after-tax rate of return to be earned by the amounts collected for decommissioning, the total estimated cost of decommissioning the nuclear plant, and the frequency of contributions to a nuclear decommissioning fund for a taxable year. Under § 1.468A-3(a)(3), the Service shall provide a schedule of ruling amounts identical to the schedule proposed by the taxpayer, but no such schedule shall be provided by the Service unless the taxpayer's proposed schedule is consistent with the principles and provisions of that section.

Section 1.468A-3(a)(4) provides that the taxpayer bears the burden of demonstrating that the proposed schedule of ruling amounts is consistent with the principles of the regulations and that it is based on reasonable assumptions. That section also provides additional guidance regarding how the Service will determine whether a proposed schedule of ruling amounts is based on reasonable assumptions. For example, if a public utility commission established or approved the currently applicable rates for the furnishing or sale by the taxpayer of electricity from the plant, the taxpayer can generally satisfy this burden of proof by demonstrating that the schedule of ruling amounts is calculated using the assumptions used by the public utility commission in its most recent order. In addition, a taxpayer that owns an interest in a deregulated nuclear plant may submit assumptions used by a public utility commission that formerly had regulatory jurisdiction over the plant as support for the assumptions used in calculating the taxpayer's proposed schedule of ruling amounts, with the understanding that the assumptions used by the public utility commission may be given less weight if they are out of date or were developed in a proceeding for a different taxpayer. The use of other industry standards, such as the assumptions underlying the taxpayer's most recent financial assurance filing with the NRC, are described by the regulations as an alternative means of demonstrating that the taxpayer has calculated its proposed schedule of ruling amounts on a reasonable basis. Section 1.468A-3(a)(4) further provides that consistency with financial accounting statements is not sufficient, in the absence of other supporting evidence, to meet the taxpayer's burden of proof.

Section 1.468A-3(b)(1) provides that, in general, the ruling amount for any taxable year in the funding period shall not be less than the ruling amount for any earlier taxable year. Under § 1.468A-3(c)(1), the funding period begins on the first day of the first taxable year for which a deductible payment is made to the nuclear decommissioning fund and ends on the last day of the taxable year that includes the last day of the estimated useful life of the nuclear power plant to which the fund relates.

Section 1.468A-3(c)(2) provides rules for determining the estimated useful life of a nuclear plant for purposes of § 468A. In general, under § 1.468A-3(c)(2)(i)(A), if the plant was included in rate base for ratemaking purposes for a period prior to January 1, 2006, the date used in the first such ratemaking proceeding as the estimated date on which the nuclear plant will no longer be included in the taxpayer's rate base is the end of the estimated useful life of the nuclear plant. Section 1.468A-3(c)(2)(i)(B) provides that, if the nuclear plant is not described in § 1.468A-3(c)(2)(i)(A), the last day of the estimated useful life of the nuclear plant is determined as of the date the plant is placed in service. Under § 1.468A-3(c)(2)(i)(C), any reasonable method may be used in determining the estimated useful life of a nuclear power plant that is not described in § 1.468A-3(c)(2)(i)(A).

Section 1.468A-3(d)(1) provides that the amount of decommissioning costs allocable to a nuclear decommissioning fund is the taxpayer's share of the total estimated cost of decommissioning the nuclear power plant. Section 1.468A-3(d)(3) provides that a taxpayer's share of the total estimated cost of decommissioning a nuclear power plant equals the total estimated cost of decommissioning such plant multiplied by the taxpayer's qualifying interest in the plant.

Section 1.468A-3(e) provides the rules regarding the manner of requesting a schedule of ruling amounts. Section 1.468A-3(e)(1)(v) provides that the Service will not provide or revise a ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment date (as defined in § 1.468A-2(c)(1)) for such taxable year.

Section 1.468A-3(e)(2) enumerates the information required to be contained in a request for a schedule of ruling amounts filed by a taxpayer in order to receive a ruling amount for any taxable year.

Section 1.468A-3(e)(3) provides that the Service may prescribe administrative procedures that supplement the provisions of §§ 1.468A(e)(1)-(2). In addition, that section provides that the Service may, in its discretion, waive the requirements of §§ 1.468A-3(e)(1) and (2) under appropriate circumstances.

Section 1.468A-3(f)(1) describes the circumstances in which a taxpayer must request a revised schedule of ruling amounts. Section 1.468A-3(f)(1)(iv) requires that a taxpayer request a revised schedule or ruling amounts for the fund if the operating license of the nuclear plant to which the fund relates is extended. The request for the revised schedule of ruling amounts must be submitted on or before the deemed payment deadline for the taxable year that includes the date on which the license extension is granted.

Section 1.468A-3(f)(2) provides that any taxpayer that has previously obtained a schedule of ruling amounts may request a revised schedule of ruling amounts. Such a

request must be made in accordance with the rules of § 1.468A-3(e). The Service shall not provide a revised schedule of ruling amounts applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

We have examined the representations and information submitted by the Taxpayer in relation to the requirements set forth in § 468A and the regulations thereunder. Based solely on the facts and representations submitted, we reach the following conclusions:

(a) Pursuant to § 1.468A-3(a)(4), Taxpayer has met its burden of demonstrating that the proposed schedule of ruling amounts is consistent with the principles of the Code and regulations and is based on reasonable assumptions.

(b) Taxpayer has a qualifying interest in the Plant and is, therefore, an eligible taxpayer under § 1.468A-1(b)(1) of the Regulations.

(c) Taxpayer, as an eligible taxpayer under § 1.468A-1(b)(1), has calculated its decommissioning costs under § 1.468A-3(d)(3) of the Regulations.

(d) The proposed schedule of ruling amounts was derived by following assumptions contained in Independent Study that have been considered and approved by Commission A. The underlying assumptions were used by Commission A to calculate the amount of decommissioning costs to be included in Taxpayer's cost of service for ratemaking purposes. Based on these representations, Taxpayer has demonstrated, pursuant to § 1.468A-3(a)(4), that the proposed schedule of ruling amounts is based on reasonable assumptions and is consistent with the principles of § 468A and the regulations thereunder.

(e) The maximum amount of cash payments made (or deemed made) to Fund during any taxable year is restricted to the ruling amount applicable to Fund, as set forth under § 1.468A-2(b)(1) of the Regulations.

Based solely on the determinations above, we conclude that the Taxpayer's proposed schedule of ruling amounts satisfies the requirements of § 468A of the Code. We have approved the following revised schedule of ruling amounts:

APPROVED SCHEDULE OF RULING AMOUNTS

Year	Commission A	Commission B	Commission C	Commission D	Commission E	Total
Each Year, Year 3 – Year 8	$l	$m	$n	$o	$p	$q

Approval of the schedule of ruling amounts is contingent on there being no change in the facts and circumstances, known or assumed, at the time the current ruling is issued. If any of the events described in § 1.468A-3(f)(1) occur in future years, Taxpayer must request a review and revision of the schedule of ruling amounts. Generally, Taxpayer is required to file such a request on or before the deemed payment deadline date for the first taxable year in which the rates reflecting such action became effective. When no such event occurs, Taxpayer must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline of the tenth taxable year following the close of the taxable year in which the most recent schedule of ruling amounts was received.

CONCLUSION

Based on the foregoing, we conclude that:

(1) The requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer's request for an extension of time to withdraw $y excess contribution and any earnings on that amount is granted. Such withdrawal will be considered timely if made within 120 days of the date of this letter.

(2) Taxpayer's proposed schedule of ruling amounts satisfies the requirements of § 468A of the Code.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal income tax consequences of the above-described facts under any other provision of the Code or regulations. Specifically, no determination is made as to whether the Independent Study conforms to industry standards and practices or whether any particular item contained in that study constitutes a nuclear decommissioning cost under § 1.468A-1(b)(6).

The rulings contained in this letter are 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 Taxpayer and accompanied by penalty of perjury statements 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, a copy of this letter is being sent to your authorized representatives. We are also sending a copy of this letter to Director. A copy of this ruling must be attached to any federal 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,

Maggie M. Stehn
Senior Counsel, Branch 2
Office of the Associate Chief Counsel
(Energy, Credits & Excise Tax)

Enclosure:
Copy for § 6110 purposes

cc:

cc:

cc: