

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.105: Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability.
(Also Part I, § 1391.)

Rev. Proc. 2020-16

SECTION 1. PURPOSE

This revenue procedure provides an automatic procedure for a State or local government in which an empowerment zone is located to extend the empowerment zone designation made under section 1391(a) of the Internal Revenue Code (Code). Specifically, the automatic procedure under section 3.01 of this revenue procedure provides that a State or local government that nominated an empowerment zone is deemed to extend until December 31, 2020, the termination date designated by that State or local government in its empowerment zone nomination (designated termination date), as described in section 1391(d)(1)(B). Section 3.02 of this revenue procedure provides a procedure for such State or local government to decline this deemed extension of its designated termination date.

SECTION 2. BACKGROUND

.01 Empowerment Zones. An empowerment zone is an area of high poverty and unemployment located in an urban or rural area that is designated under section 1391(a), as appropriate, by the Secretary of Housing and Urban Development or the Secretary of Agriculture, each Secretary an “appropriate Secretary” under section 1393(a)(1) of the Code. See section 1391(a); see generally section 1393. Qualifying taxpayers and businesses located within the boundaries of empowerment zones are eligible for Federal income tax incentives to promote economic development in those designated areas. See section 1396 of the Code (regarding empowerment zone employment credits); section 1397A of the Code (providing an increase in expensing under section 179 of the Code); section 1397B of the Code (providing nonrecognition of gain on rollover of empowerment zone investments).

.02 Duration of Empowerment Zone Designation and Extensions.

(1) Initial duration of designation. As originally enacted in 1993, section 1391(d)(1) provided that the designation of an empowerment zone remained in effect during the period beginning on the date of the designation and ending on the earliest of (i) the close of the 10th calendar year beginning on or after such date of designation (statutory termination date), (ii) the termination date designated by a State or local government in its nomination (that is, the designated termination date), or (iii) the date the appropriate Secretary revokes the designation. See section 13301(a) of the Omnibus Budget Reconciliation Act of 1993 (OBRA of 1993), Public Law 103-66, 107 Stat. 312 (August 10, 1993) (adding section 1391(d)(1) to the Code).

(2) First extension of empowerment zone designations. Section 112 of the Community Renewal Tax Relief Act of 2000 (CRTA of 2000), enacted as part of the

Consolidated Appropriations Act, 2001, Appendix G, Public Law 106-554, 114 Stat. 2763A-587 (December 21, 2000), amended section 1391(d)(1)(A)(i) to extend the designation of empowerment zones through December 31, 2009, regardless of the designated termination date provided by a State or local government in its nomination. See also part II of Notice 2013-38, 2013-25 I.R.B. 1251. Therefore, following the enactment of the CRTA of 2000, the respective nominations for all empowerment zones were treated at that time as having a designated termination date of December 31, 2009. See id.

(3) Subsequent extensions of statutory termination date. The statutory termination date has been extended several additional times, most recently in 2019 to extend that date to December 31, 2020. See section 118(a) of the Taxpayer Certainty and Disaster Tax Relief Act of 2019 (TCDTRA of 2019), enacted as part of the Further Consolidated Appropriations Act, 2020, Division Q, Public Law 116-94, 133 Stat. 2534 (December 20, 2019). See also section 40311(a)(1) of the Bipartisan Budget Act of 2018 (BBA of 2018), Public Law 115-123, 132 Stat. 64 (February 9, 2018); section 171(a)(1) of the Protecting Americans from Tax Hikes Act of 2015 (PATH ACT of 2015), enacted as part of the Consolidated Appropriations Act, 2016, Division Q, Public Law 114-113, 129 Stat. 2242 (December 18, 2015); section 139(a) of the Tax Increase Prevention Act of 2014 (TIPA of 2014), Public Law 113-295, 128 Stat. 4010 (December 19, 2014); section 327(a) of the American Taxpayer Relief Act of 2012 (ATRA of 2012), Public Law 112-240, 126 Stat. 2313 (January 2, 2013); section 753(a)(1) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA of 2010), Public Law 111-312, 124 Stat. 3296 (December 17, 2010).

(4) Subsequent extensions of designated termination date. After each subsequent extension of the statutory termination date, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) have issued guidance for automatically treating a designated termination date as extended to the date of the amended statutory termination date, unless the State or local government declined the extension in a written notification to the IRS. See part III of Notice 2018-47, 2018-21 I.R.B. 621 (deemed extension to December 31, 2017); part III of Notice 2016-28, 2016-15 I.R.B. 576 (deemed extension to December 31, 2016); part III of Notice 2015-26, 2015-13 I.R.B. 814 (deemed extension to December 31, 2014); part III of Notice 2013-38 (deemed extension to December 31, 2013). The Treasury Department and the IRS issued each of these notices pursuant to a specific grant of authority provided in the statutes described in section 2.02(3) of this revenue procedure. See section 40311(a)(2) of the BBA of 2018; section 171(a)(2) of the PATH ACT of 2015; section 139(b) of the TIPA of 2014; section 327(c) of the ATRA of 2012; section 753(c) of TRUIRJCA of 2010.

(5) Current designated termination date of all empowerment zones. The IRS has received no written request from a State or local government to decline any extension otherwise provided under Notice 2013-38, Notice 2015-26, Notice 2016-28, or Notice 2018-47. Therefore, as of June 11, 2020, all empowerment zones have a designated termination date of December 31, 2017, the latest statutory termination date prior to enactment of the TCDTRA of 2019.

.03 Statutory authority to extend current designated termination date. Section 118(b) of the TCDTRA of 2019 provides that, if a nomination for an empowerment zone

includes a designated termination date of December 31, 2017, section 1391(d)(1)(B) does not apply to the designation if, after the date of enactment of the TCDTRA of 2019, the State or local government that made such nomination extends the termination date to December 31, 2020 (that is, the statutory designation date), in such manner as may be provided by the Secretary of the Treasury (or the Secretary's designee).

Accordingly, to provide procedures to extend a designated termination date to December 31, 2020, section 3.01 of this revenue procedure sets forth an automatic extension procedure and section 3.02 of this revenue procedure sets forth a written declination procedure consistent with the notices described above.

SECTION 3. AUTOMATIC EXTENSION OF DESIGNATED TERMINATION DATE

.01 Automatic extension. Subject to declination by written notification pursuant to section 3.02 of this revenue procedure, the designated termination date with regard to all empowerment zones is deemed to be extended from December 31, 2017 to December 31, 2020. Accordingly, the designated termination date is deemed to be the same date as the date provided in section 1391(d)(1)(A)(i) (that is, December 31, 2020). Therefore, section 1391(d)(1)(B) does not apply and the designation of all empowerment zones will remain in effect until December 31, 2020 (unless terminated at an earlier date by the appropriate Secretary under section 1391(d)(1)(C)).

.02 Declination of automatic extension.

(1) In general. Pursuant to section 3.02(2) of this revenue procedure, a State or local government may decline the extension of a designated termination date described in section 3.01 of this revenue procedure.

(2) Form and manner.

(a) Deadline for written notification. To make a declination under section 3.02(1) of this revenue procedure, not later than August 10, 2020, the State or local government must provide written notification to the IRS that affirmatively declines the December 31, 2020, designated termination date extension under section 3.01 of this revenue procedure.

(b) Electronic delivery. This written notification must be sent by electronic facsimile to Bruce Chang, CC:ITA:B07, at facsimile number (855) 576-2341.

SECTION 4. EFFECT ON OTHER DOCUMENTS

Notice 2018-47 is obsoleted for taxable years beginning after 2017.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective June 11, 2020.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Bruce Chang of the Office of Associate Chief Counsel (Income Tax & Accounting). For further information regarding this revenue procedure, contact Mr. Chang at (202) 317-4870 (not a toll-free number).