

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. 2021-18

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, this revenue procedure provides that a State or local government that nominated an empowerment zone is deemed to extend until December 31, 2025, 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). This revenue procedure further provides the 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 1394 of the Code (regarding tax-exempt enterprise zone facility bonds) and section 1396 of the Code (regarding empowerment zone employment credits).

.02 Empowerment Zone Designation and Extensions.

(1) Initial 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 As originally enacted in 1993, section 1391(d)(1) provided that the designation of an empowerment zone remained in effect during the period beginning on the date of the designation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) Extensions of statutory termination date and automatic extensions of designated termination date. The statutory termination date has been extended multiple times, most recently in 2020 to extend that date to December 31, 2025. See

section 118(a) of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (TCDTRA of 2020), enacted as part of Title I of Division EE of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182 (December 27, 2020). After each extension of the statutory termination date and pursuant to specific statutory grants of authority, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) issued guidance 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, for example, section 3 of Rev. Proc. 2020-16, 2020-27 I.R.B. 10 (deemed extension to December 31, 2020); see also section 2 of Rev. Proc. 2020-16 (providing an overview of each extension of the statutory termination date).

(3) 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 of a designated termination date otherwise provided in the previous guidance described in section 2.02(2) of this revenue procedure. Therefore, as of March 26, 2021, all empowerment zones have a designated termination date of December 31, 2020, the latest statutory termination date prior to enactment of the TCDTRA of 2020.

.03 Statutory authority to extend current designated termination date. Section 118(d) of the TCDTRA of 2020 provides that, if a nomination for an empowerment zone includes a designated termination date of December 31, 2020, section 1391(d)(1)(B) does not apply to the designation if, after the date of enactment of the TCDTRA of 2020, the State or local government that made such nomination amends the nomination to provide a new termination date in such manner as may be provided by the Secretary of

the Treasury (or the Secretary's designee). Accordingly, section 3.01 of this revenue procedure sets forth an automatic extension procedure to extend a designated termination date to December 31, 2025, and section 3.02 of this revenue procedure sets forth a written declination procedure consistent with the previous guidance 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, 2020, to December 31, 2025. 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, 2025). Therefore, section 1391(d)(1)(B) does not apply and the designation of all empowerment zones will remain in effect until December 31, 2025 (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 May 25, 2021, the State or local government must provide written notification to the IRS that affirmatively declines the December 31, 2025, 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

Rev. Proc. 2020-16 is obsoleted for taxable years beginning after 2020.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 2020, the effective date of the amendments made by section 118 of the TCDTRA of 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).