

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Telephone Number:

Refer Reply To:
CC:PSI:B06
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Date:
September 25, 2008

LEGEND:

Taxpayer = (EIN:)

a =

Dear :

We received a letter, dated , from your authorized representative requesting permission, under § 301.9100 of the Procedure and Administration Regulations for an extension of time to make an election under § 59(e) of the Internal Revenue Code for the a taxable year. This letter responds to that request.

According to the information submitted, Taxpayer did not timely make the election under § 59(e) for the a taxable year. Taxpayer has made representations explaining why the election under § 59(e) was not timely filed.

Section 59(e) provides an optional ten year write-off of certain tax preferences. Section 59(e)(4) provides that an election may be made under § 59(e)(1) with respect to any portion of any qualified expenditure.

Section 1.59-1(b)(1) provides that an election under § 59(e) can only be made by attaching a statement to the taxpayer's income tax return (or amended return) for the taxable year in which the amortization of the qualified expenditures subject to the § 59(e) election begins. The statement must be filed no later than the date prescribed by law for filing the taxpayer's original income tax return (including any extensions of time) for the taxable year in which the amortization of the qualified expenditures subject to the § 59(e) election begins.

Under § 301.9100-1(c), the Commissioner in exercising the Commissioner's discretion may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time under § 301.9100-1(a) 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.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Based solely on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, an extension of time is granted, until 60 days from the date of this ruling, for making an election under § 59(e) for the a taxable year.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter under any provision of the Code and the Regulations thereunder. Specifically, we express or imply no opinion concerning whether the expenditures are qualified expenditures under § 59(e)(2).

This letter ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this ruling letter is being sent to your authorized representative.

Sincerely,

Curt G. Wilson
Deputy Associate Chief Counsel
(Passthroughs and Special Industries)

cc: