Internal Revenue Service

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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:PSI:B06
PLR-107492-21

Date:
September 13, 2021

Re: Request for extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file an election pursuant to § 59(e) of the Internal Revenue Code

LEGEND:

Taxpayer =

Firm =

Taxable Years =

Dear :

This letter responds to a letter dated March 31, 2021, submitted on behalf of Taxpayer, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an election under § 59(e) of the Internal Revenue Code (Code) and § 1.59-1(b)(1) of the Income Tax Regulations to deduct ratably over a 10-year period research and experimental (R&E) expenditures incurred in the Taxable Years under § 174(a). This letter is being issued electronically in accordance with Rev. Proc. 2020-29, 2020-21 I.R.B. 859. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is a corporation and is the parent of a consolidated group for federal income tax purposes. Taxpayer files its consolidated federal income tax return on the basis of a calendar year and uses the accrual method as its overall method of accounting.

Taxpayer engaged Firm to prepare its consolidated federal income tax returns for the Taxable Years. Prior to the filing of its tax returns for the Taxable Years, Taxpayer had advised Firm of its decision to make an election under § 59(e) for each of the Taxable Years. Taxpayer capitalized and amortized R&E expenditures on its tax returns for each of the Taxable Years under § 59(e). Due to an administrative error, Firm failed to attach the statement required to make the election under § 1.59-1(b)(1) to the tax returns for each of the Taxable Years.

Taxpayer represents that, in requesting an extension of time to make an election under § 59(e) for each of the Taxable Years, it acted reasonably and in good faith and, further, there is no prejudice to the interests of the government.

RULING REQUESTED

Taxpayer requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make the election under § 59(e) for each of the Taxable Years.

LAW AND ANALYSIS

Section 59(e)(1) provides, in relevant part, that any qualified expenditure to which an election under § 59(e)(1) applies shall be allowed as a deduction ratably over the 10-year period beginning with the taxable year in which such expenditure was made.

Section 59(e)(2)(B) includes in the definition of “qualified expenditure” any amount which, but for an election under § 59(e), would have been allowable as a deduction (determined without regard to § 291) for the taxable year in which paid or incurred under § 174(a) (relating to R&E expenditures).

Section 59(e)(3) provides that except as provided in § 59(e), no deduction shall be allowed under any other section of the Code for any qualified expenditure to which an election under § 59(e) applies.

Section 59(e)(4)(A) provides that an election may be made under § 59(e)(1) with respect to any portion of any qualified expenditure.

Section 59(e)(4)(B) provides that any election under § 59(e) may be revoked only with the consent of the Secretary.

Section 1.59-1(b)(1) provides that an election under § 59(e) shall 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. Additionally, the statement must include the taxpayer's name, address, and taxpayer identification number, and the type and amount of qualified expenditures identified in § 59(e)(2) that the taxpayer elects to deduct ratably over the applicable period described in § 59(e)(1).

Under § 301.9100-1(c), the Commissioner may grant a reasonable extension of time 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.

Section 301.9100-1(b) provides the term "regulatory election" includes an election the due date of which is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide the standards used to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a).

Section 301.9100-2 allows automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2.

The Commissioner will grant requests for relief under § 301.9100-3 when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) 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. Section 301.9100-3(a).

CONCLUSION

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 through 301.9100-3 have been satisfied. Accordingly, the Commissioner grants Taxpayer an extension of time of 120 days from the date of this letter to make an election for each of the Taxable Years under § 59(e) and § 1.59-1(b)(1) to deduct ratably over a 10-year period its R&E expenditures incurred in each of the Taxable Years. The § 59(e) election for each of the Taxable Years must comply with the manner-of-election requirements of § 1.59-1(b)(1).

In making the election for each of the Taxable Years, Taxpayer must attach a copy of this letter ruling to its amended consolidated federal income tax return. We have enclosed a copy for that purpose. Alternatively, if Taxpayer files its amended consolidated federal income tax return electronically, it may satisfy this requirement by

attaching a statement to its amended return that provides the date and control number of the letter ruling.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination. Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code and the regulations thereunder. Specifically, we express or imply no opinion concerning whether Taxpayer satisfies the requirements of § 59(e) or § 174(a).

This letter ruling is directed only to the taxpayer who requested it. Under § 6110(k)(3), a letter ruling may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to your authorized representative. We are also sending a copy of this letter to the LB&I Policy Office.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

Jennifer A. Records

By: _____
Jennifer A. Records
Senior Technician Reviewer, Branch 6
Office of the Associate Chief Counsel
Passthroughs and Special Industries

Enclosure
Copy for § 6110 purposes

cc: