

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **202228014**  
Release Date: 7/15/2022  
Index Number: 194.10-00

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B06  
PLR-122234-21

Date:  
April 12, 2022

Re:

**LEGEND:**

- Taxpayer =
- State A =
- Region =
- Couple A =
- Couple B =
- Trust A =
- Trust B =
- Trust C =
- Trust D =
- Person A =
- Person B =
- Person C =
- Person D =
- Person E =
- Person F =
- Person G =
- Person H =
- Person I =
- Person J =
- Person K =
- a =
- b =
- c =
- d =
- e =
- f =
- g =
- h =

i	=
Date 1	=
Firm A	=
Firm B	=
Year A	=
Year B	=
Year C	=
Year D	=
Year E	=
Director	=

Dear

This letter ruling responds to a letter dated October 22, 2021, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an election to expense and/or amortize reforestation expenditures under Section 194 of the Internal Revenue Code.

## FACTS

Taxpayer was organized as a State A general partnership in Year A. In Year B, the partnership was reorganized as a limited liability company. The Taxpayer's principal business activity is the acquisition and management of timberlands in the Region. Taxpayer uses the accrual method of accounting and files Form 1065, U.S. Return of Partnership Income, on a calendar year basis. Each partner of the Taxpayer files the appropriate annual income tax return to report its share of income, loss, and deduction.

Taxpayer's members are Couple A at a% interest, Person A at b% interest, Couple B at c% interest, Trust A at d% interest, Person B at e% interest, Person C at f% interest, Person D at g% interest, Person E at h% interest, Person F at h % interest, Person G at h% interest, Person H at h% interest, Person I at h% interest, Trust B at b% interest, Trust C at b% interest, Person J at b% interest, Person K at h % interest, and Trust D at i% interest.

Taxpayer engaged Firm A for preparation of its annual income tax returns beginning with the tax year ending on Date 1. Taxpayer's returns for Year A through Year C were prepared by Firm B and its predecessors.

Taxpayer's returns were prepared as if the Section 194 election had been made in its prior year tax returns; however, it was subsequently determined upon review that the required election statement was not attached to the timely filed returns for tax years Year D through Year E as required by Section 194.

Taxpayer and its return preparers were aware of the election, and they represent that they intended at all times to properly make the §194 election. All applicable tax returns

from Year D through Year E were prepared as if the election to expense and/or amortize reforestation costs had been properly made. However, they failed to attach the required statement to the returns for these years. Taxpayer represents that granting an extension of time to properly make the election by filing the required statement will not change the taxable income of the Taxpayer or the resulting tax liability of its partners. Taxpayer represents that they reasonably relied on its return preparers, Firm A and Firm B, to properly make the election to amortize reforestation expenses.

Taxpayer requests an extension of time to make the elections on their tax returns for Year D through Year E to expense and/or amortize reforestation expenditures under Section 194.

## **LAW AND ANALYSIS**

Section 194(a) states that in the case of any qualified timber property with respect to which taxpayer has made (in accordance with regulations prescribed by the Secretary) an election, the taxpayer shall be entitled to a deduction with respect to the amortization of the amortizable basis of qualified timber property based on a period of 84 months. Such amortization deduction shall be an amount, with respect to each month of such period within the taxable year, equal to the amortizable basis at the end of such month, divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The 84-month period shall begin on the first day of the first month of the second half of the taxable year in which the amortizable basis is acquired.

Treas. Reg. 1-194-3(a) defines the term “qualified timber property” as a woodlot or other site located in the United States which will contain trees in significant commercial quantities, and which is held by the taxpayer for the planting, cultivating, caring for, and cutting of trees for sale or use in the commercial production of timber products.

Treas. Reg. 1-194-3(b) defines the term “amortizable basis” as that portion of the basis of the qualified timber property attributable to reforestation expenditures which have not been taken into account under Section 194(b).

Treas. Reg. 1-194-3(c) defines the term “reforestation expenditures” as the direct costs incurred in connection with forestation of reforestation by planting or artificial or natural seeding, including costs—

- (i) For the preparation of the site;
- (ii) Of seeds or seedlings; and
- (iii) For labor and tools, including depreciation of equipment such as tractors, trucks, tree planters, and similar machines used in planting or seeding.

Under Treas. Reg. 1.194-4(a), an election to amortize reforestation expenditures under section 194 shall be made by entering the amortization deduction claimed at the appropriate place on the taxpayer's income tax return for the year in which the expenditures were incurred, and by attaching a statement to such return. The statement should state the amounts of the expenditures, describe the nature of the expenditures, and give the date on which each was incurred. The statement should also state the type of timber being grown and the purpose for which it is being grown. A separate statement must be included for each property for which reforestation expenditures are being amortized under section 194. The election may only be made on a timely return (taking into account extensions of the time for filing) for the taxable year in which the amortizable expenditures were made.

Under § 301.9100-1(a), 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 a regulatory election.

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

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 rules for requesting extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2.

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.

Based solely on the information submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted an extension of time to make the elections under § 194 to expense and/or amortize reforestation expenditures. In this regard, we will consider this election made by Taxpayer on its federal income tax returns for taxable years Year D through Year E to be timely made.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above. In particular, we express or imply no opinion on whether Taxpayer satisfies the requirements of § 194. In addition, we express no opinion regarding whether any particular item is property included by taxpayer within "reforestation expenditures" as defined in section 194.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty 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 rulings, it is subject to verification on examination.

This ruling is 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.

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

Sincerely,

Patrick S. Kirwan  
Chief, Branch 6  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

cc: