

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:01  
PLR-102153-23

Date:  
July 17, 2023

LEGEND

X =

State =

Date =

1  
Year =

Dear :

This responds to a letter dated January 19, 2023, submitted on behalf of X by X's authorized representative, requesting relief pursuant to § 301.9100-3 of the Procedure and Administration Regulations that X be granted an extension of time to file an election under § 263(c) of the Internal Revenue Code ("Code").

FACT

The information submitted states that X was formed under the laws of State on Date 1. X is an oil and gas joint venture treated as a partnership for federal income tax purposes, is a cash method taxpayer that files a federal partnership income tax return on a calendar year basis.

According to the information submitted, X did not timely make an election under § 263(c) for taxable year, Year. X has made representations explaining why the election under § 263(c) was not timely filed.

### LAW AND ANALYSIS

Section 263(c) allows a taxpayer an election, under regulations prescribed by the Secretary, to deduct IDC. Those regulations are set forth in § 1.612-4 of the Income Tax Regulations.

Under § 1.612-4(d), a taxpayer may exercise the election to expense IDC by claiming IDC as a deduction on the taxpayer's return for the first taxable year in which the taxpayer pays or incurs IDC. No formal statement is necessary, but if the taxpayer fails to deduct IDC, the taxpayer is deemed to have elected to recover IDC through depletion to the extent that they are not represented by physical property and through depreciation to the extent that they are represented by physical property.

Under § 1.612-4(e), an election under § 263(c) is binding on the taxpayer for the first taxable year for which it is effective and for all subsequent taxable years.

Section 301.9100-1(c) of the Procedure and Administration Regulations provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 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 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 the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2.

Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

### CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of § 301.9100-3 have been satisfied with respect to the taxable year, Year. Accordingly, an extension of time is hereby granted, until 60 days from the date of this ruling, for X to make an election under § 263(c) for the taxable year, Year.

Except as specifically ruled upon above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the

Code. Specifically, we express or imply no opinion concerning whether Taxpayer owns working interests in oil and gas properties or whether any costs paid or incurred by Taxpayer qualify as IDC under § 263(c) and § 1.612-4. In addition, §301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

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 who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely,

Holly Porter  
Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_  
Bradford R. Poston  
Special Counsel  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure  
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cc: