

## Internal Revenue Service

Number: **202344014**

Release Date: 11/3/2023

Index Number: 174.00-00, 9100.02-00,  
59.00-00

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:B03  
PLR-109075-23

Date:  
August 07, 2023

X =

State =

Date 1 =

Date 2 =

Dear :

This responds to a letter dated April 21, 2023, submitted on behalf of X by X's authorized representative, 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.

### FACTS

The information submitted states that X was formed under the laws of State on Date 1 and is classified as a corporation for federal tax purposes. X develops, markets, sells, and supports a comprehensive set of software tools and workflow solutions.

According to the information submitted, X did not timely make an election under § 59(e) for its tax year ending Date 2. X has made representations explaining why the election under § 59(e) was not timely filed.

### LAW AND ANALYSIS

Section 59(e)(1) allows a taxpayer to deduct ratably over a specified period any qualified expenditure to which an election under § 59(e)(1) applies.

Section 59(e)(2) includes in the definition of “qualified expenditure” any amount which, but for an election under § 59(e), would have been allowable as a deduction for the taxable year in which paid or incurred under § 174(a) (relating to research and experimental expenditures).

Section 59(e)(1) allows a taxpayer to deduct research and experimental expenditures ratably over the 10-year period beginning with the taxable year in which the expenditures were made.

Section 59(e)(3) specifically prohibits the deduction of the qualified expenditures under any other section of the Code if this option is elected. Section 59(e)(4)(A) allows a taxpayer to make an election under § 59(e)(1) for any portion of any qualified expenditure.

Section 1.59-1(b)(1) prescribes the time and manner of making the election under § 59(e). According to § 1.59-1(b)(1), 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 taxpayer must file the statement 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.

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 X's fiscal year ending Date 2. Accordingly, an extension of time is hereby granted, until 60 days from the date of this ruling, for X to make an election under § 59(e) for X's fiscal year ending Date 2. The election must comply with the requirements of § 1.59-1(b).

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 X satisfies the requirements of § 174(a) or § 59(e). 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)

*Bradford R. Poston*

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

Enclosure  
Copy for § 6110 purposes

cc: