

This letter responds to a letter dated November 17, 2022, and subsequent correspondence, 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 file a request for a revised schedule of ruling amounts for purposes of § 468A of the Internal Revenue Code and § 1.468A-3(f)(1)(iv).

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer is a State corporation and a wholly-owned subsidiary of Parent and is a member of Parent's consolidated group for federal income tax purposes. Parent and its affiliated group of corporations file a consolidated federal income tax return on a calendar year basis using the accrual method of accounting.

Taxpayer owns X percent interest in Plant. Taxpayer has established a qualified Fund with respect to the Plant as allowed by section 468A. The Taxpayer received a schedule of ruling amounts from the Internal Revenue Service dated Date A. The numbers in Taxpayer's request for that schedule of ruling amounts were calculated based on the then-current license expiration date. The license for Plant was originally set to expire on Date B. On Date C, the Nuclear Regulatory Commission (NRC) granted Taxpayer a renewed facility operating license, extending the operating license for Plant to Date D. Taxpayer was required to request a revised schedule of ruling amounts from the Service by Date E after the license extension was granted by the NRC. Taxpayer failed to request such schedule of ruling amounts by Date E.

RULING REQUESTED

Taxpayer requests an extension of time under §§ 301.9100-1 and 301.9100-3 to allow Taxpayer to file a revised schedule of ruling amounts for Plant's nuclear decommissioning trust qualified fund.

ANALYSIS

Section 468A provides that a taxpayer may elect to deduct the amount of payments made to a qualified decommissioning fund. However, former § 468A(b) limits the amount paid into such fund for any taxable year to the lesser of the amount of nuclear decommissioning costs allocable to this fund which is included in the taxpayer's cost of service for ratemaking purposes for the tax year or the ruling amount applicable to this year.

Section 468A(d)(1) provides that no deduction shall be allowed for any payment to a qualified nuclear decommissioning fund unless the taxpayer receives a schedule of ruling amounts from the Secretary. Section 468A(d)(1) further requires a Taxpayer to

request a revised schedule of ruling amounts upon renewal of a nuclear power plant operating license.

Section 1.468A-3(f)(1)(iv) requires that a taxpayer who receives a renewal of an operating license of a nuclear power plant to which a qualified nuclear decommissioning fund relates must request a revised schedule of ruling amounts on or before the deemed payment deadline for the taxable year that includes the date on which the license was extended. In this case, Taxpayer was required to request the revised schedule of ruling amounts by Date E.

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 facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer's request for a revised schedule of ruling amounts based on the license

extension granted on Date C will be considered timely filed for purposes of § 1.468A-3(f)(1)(iv) if such request is submitted within 120 days of the date of this letter.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

/s/

By:

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

Enclosure
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cc: