

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202418013**
Release Date: 5/3/2024

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 9100.34-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B05
PLR-123977-23
Date:
January 30, 2024

In Re:

LEGEND

Taxpayer =

a =
b =

Dear :

This letter responds to your request for a private letter ruling, dated November 27, 2023, and subsequent correspondence, submitted by your authorized representative, requesting permission to file late elections under § 301.9100-3 of the procedure and administration regulations to be treated as a homeowners association under section 528 of the Internal Revenue Code (Code) by filing Forms 1120-H, U.S. Income Tax Return for Homeowners Associations.

The information submitted and the representations made are as follows: Taxpayer is a homeowners association. Taxpayer relied on the advice of a tax professional and did not file Forms 1120-H for taxable years a and b because the officers of Taxpayer were not fully aware of the income tax filing requirements for a homeowners association. After hiring a new tax professional, Taxpayer became aware of the failure to file Forms 1120-H. Upon becoming aware of this situation, Taxpayer submitted this request for a letter ruling.

Section 528 and § 1.528-1 of the Income Tax Regulations generally provide that homeowners associations meeting the requirements of section 528(c) may be treated as tax-exempt organizations, but only to the extent of their exempt function income.

Section 528(c)(1) provides, in part, that the term "homeowners association" means an organization that elects (at such time and in such manner as the Secretary of Treasury by regulations prescribes) to have section 528 apply for the taxable year.

Section 1.528-8(a) provides that a separate election to be treated as a homeowners association under section 528 must be made for each taxable year. This election must be made by filing a properly completed Form 1120-H (or such other form as the Secretary of Treasury may prescribe).

Section 1.528-8(b) provides that for taxable years ending after December 30, 1976, the election must be made not later than the time, including extensions, for filing an income tax return for the year in which the election is to apply.

Section 301.9100-1(c) provides that the Commissioner of Internal Revenue, in an exercise of discretion, may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but not 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.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner of Internal Revenue will use to determine whether to grant an extension of time to make the election under § 301.9100-1(a). In addition, § 301.9100-2 provides automatic extensions of time for making certain elections, and § 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish that the taxpayer acted reasonably and in good faith and that granting relief will not prejudice the interests of the government.

Based on the facts and representations submitted with Taxpayer's request, we have determined that the requirements of § 301.9100-3 have been satisfied with respect to taxable years a and b. Therefore, an extension of time is granted, until 120 days from the date of this ruling, for making the elections required on Forms 1120-H for Taxpayer to be treated as a homeowners association under section 528 with respect to its taxable years a and b.

We note, however, that the burden is upon Taxpayer to produce, upon request, any records necessary to establish to the satisfaction of the Internal Revenue Service that Taxpayer meets all the requirements of section 528(c)(1).

Except as expressly ruled herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter or under any other provisions of the Code. Specifically, we express no opinion concerning the assessment of interest, additions to tax, additional amounts, or penalties for failure to file an income tax return with respect to any year. In addition, we express or imply no opinion on whether Taxpayer qualifies as a homeowners association under section 528(c).

A copy of this letter should be attached to Taxpayer's Form 1120-H for each year covered by this letter.

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.

The ruling contained in this letter is based on the information submitted and representations made by 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 ruling, it is subject to verification on examination.

In accordance with the provisions of a Power of Attorney currently on file with this office, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

DILLON J. TAYLOR
Senior Technician Reviewer, Branch 5
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures:
Copy for section 6110 purposes

CC: