

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:ITA:B04

PLR-103931-25

Date:

August 19, 2025

LEGEND

| | |
|-------------------|---|
| Taxpayer | = |
| LLC | = |
| Date 1 | = |
| Date 2 | = |
| Date 3 | = |
| Date 4 | = |
| Month 1 | = |
| Month 2 | = |
| Year 1 | = |
| Year 2 | = |
| Managers | = |
| Legal Advisor | = |
| Financial Advisor | = |
| Advisor | = |
| State Z | = |

Dear :

This letter responds to Taxpayer's request, dated Date 4, requesting a private letter ruling granting relief to make a late regulatory election pursuant to Treas. Reg. §§ 301.9100-1 and 301.9100-3¹ of the Procedure and Administration Regulations. Specifically, Taxpayer requests an extension of time to file a Form 8996, *Qualified Opportunity Fund*, to be treated as timely for purposes of the election (1) to self-certify

¹ Unless otherwise specified, all "section" or "§" references are to sections of the Internal Revenue Code of 1986, as amended, Title 26 U.S.C. ("Code"), or the Treasury Regulations (26 CFR Part 1 or 26 CFR Part 301).

as a qualified opportunity fund (QOF), as defined in section 1400Z-2(d), and (2) to be treated as a QOF, effective as of Month 2, as provided under section 1400Z-2(d) and § 1.1400Z2(d)-1(a).

This letter ruling is being issued electronically in accordance with Rev. Proc. 2024-1, 2024-1 I.R.B. 1. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer has represented that the facts are as follows:

Taxpayer, organized as a limited liability company under the laws of State Z, was formed in Month 1 to be a QOF for the purpose of being a QOF and investing in qualified opportunity zone property under the meaning of section 1400Z-2(d)(2). Taxpayer is classified as a partnership for Federal income tax purposes, files its returns on the calendar year, and uses the accrual method of accounting.

Managers engaged Financial Advisor to advise on the formation, requirements, and tax implications of a QOF. Managers engaged Legal Advisor to prepare the organizational governance and formation documents. Managers also engaged Advisor as the primary tax advisor for Managers to prepare all required federal and state tax filings.

On Date 1, Taxpayer invested in LLC, which acquired qualified opportunity zone property on Date 2. Advisor was aware that Managers were reporting deferrals of capital gain on their individual income tax return, but Advisor mistakenly believed that such deferrals were the result of Managers directly investing in LLC, for which the tax returns were prepared by a third party. Financial Advisor, on the other hand, was aware the investments were made through Taxpayer but mistakenly believed that Advisor was also aware of this and would prepare the necessary elections and tax returns on behalf of Taxpayer. Managers relied on Advisor and Financial Advisor to communicate between each other to ensure that all required tax forms were timely filed. As a result of the inadvertent miscommunication between Advisor and Financial Advisor, neither Taxpayer's Year 1 Form 1065 nor the Form 8996 were timely filed.

During a routine planning meeting regarding Taxpayer and Managers between Advisor and Financial Advisor in Year 2, it was discovered that Taxpayer's Year 1 Form 1065 and the Form 8996 had not been filed due to the inadvertent miscommunication. Taxpayer subsequently filed a Form 1065 for Year 1 on Date 3 and submitted this request for relief.

LAW AND ANALYSIS

Section 1400Z-2(e)(4)(A) directs the Secretary to prescribe regulations for the certification of QOFs. Section 1.1400Z2(d)-1(a)(2)(i) provides that the self-certification of a QOF must be timely filed and effectuated annually in such form and manner as may

be prescribed by the Commissioner of Internal Revenue in the Internal Revenue Service forms or instructions, or in publications or guidance published in the Internal Revenue Bulletin.

To self-certify as a QOF, a taxpayer must file Form 8996 with its tax return for the year to which the certification applies. Form 8996 must be filed by the due date of the tax return (including extensions). The information provided indicates that Taxpayer intended to self-certify as a QOF as of Month 2.

Because § 1.1400Z2(d)-1(a)(2)(i) sets forth the manner and timing for an entity to self-certify as a QOF, these elections are regulatory elections, as defined in § 301.9100-3(b)(1).

Sections 301.9100-1 through 301.9100-3 provide the standards the Service will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-3(a) provides that requests for extensions of time for regulatory elections (other than automatic changes covered in § 301.9100-2) will be granted when the taxpayer acted reasonably and in good faith and granting relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer—

- (i) Requests relief before the failure to make the regulatory election is discovered by the Service;
- (ii) Failed to make the election because of intervening events beyond the taxpayer's control;
- (iii) Failed to make the election because, after exercising reasonable diligence, the taxpayer was unaware of the necessity for the election;
- (iv) Reasonably relied on the written advice of the Service; or
- (v) Reasonably relied on a qualified tax professional, and the professional failed to make, or advise the taxpayer to make, the election.

Under § 301.9100-3(b)(3), a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer—

- (i) Seeks to alter a return position for which an accuracy-related penalty could be imposed under section 6662 at the time the taxpayer requests relief and the new position requires a regulatory election for which relief is requested;
- (ii) Was fully informed of the required election and related tax consequences, but chose not to file the election; or
- (iii) Uses hindsight in requesting relief. If specific facts have changed since the original deadline that make the election advantageous to a taxpayer, the Service will not ordinarily grant relief.

Section 301.9100-3(c) provides that the Service will grant a reasonable extension of time only when the interests of the Government will not be prejudiced by the granting of relief. The interests of the Government are prejudiced if granting relief would result in a taxpayer having a lower tax liability in the aggregate for all taxable years affected by the election than the taxpayer would have had if the election had been timely made.

CONCLUSION

Based on the facts and information submitted and the representations made, we conclude that Taxpayer has acted reasonably and in good faith, and that the granting of relief would not prejudice the interests of the Government. Accordingly, based solely on the facts and information submitted, and the representations made in the ruling request, Taxpayer has satisfied the requirements of the regulations for the granting of relief, and Taxpayer's late-filed Form 8996, certifying Taxpayer as a QOF as of Month 2, will be considered timely filed provided it is filed with the appropriate service center no later than 60 days from the date of this letter ruling.

CAVEATS

This ruling is based upon facts and representations submitted by Taxpayer and accompanied by penalty of perjury statements executed by the appropriate parties. This office has not verified any of the material submitted in support of the request for a ruling. However, as part of an examination process, the Service may verify the factual information, representations, and other data submitted.

This ruling addresses the granting of § 301.9100-3 relief as applied to the election to self-certify Taxpayer as a QOF, as of Month 2. Except as expressly provided herein, no opinion is either expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we have no opinion, either express or implied, concerning whether any investments made into Taxpayer are qualifying investments as defined in § 1.1400Z2(a)-1(b)(34) or whether Taxpayer meets the requirements under section 1400Z-2 and the regulations thereunder to be a QOF. Further, we also express no opinion on whether any interest owned in any entity owned by Taxpayer qualifies as qualified opportunity zone property, as defined in section 1400Z-2(d)(2), or whether such entity would be treated as a qualified opportunity zone business, as defined in section 1400Z-2(d)(3). We express no opinion regarding the tax treatment of the instant transaction under the provisions of any other sections of the Code or regulations that may be applicable, or regarding the tax treatment of any conditions existing at the time of, or effects resulting from, the instant transaction.

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.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

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,

Mon L. Lam
Senior Counsel, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: