

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
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CC:ITA:B07  
PLR-101801-25

Date:  
December 22, 2025

In re:

Request for an extension of time to make an election not to be treated as a tax-exempt entity

Legend

- Taxpayer =
- Tax-exempt Entity =
- Fee Owner =
- Advisor1 =
- Advisor2 =
- Date1 =
- Date2 =
- Year1 =
- Month1 =
- Period1 =
- Z =

Dear :

This letter ruling responds to Taxpayer’s letter received Date1, and subsequent correspondence. Taxpayer requests an extension of time under § 301.9100-1 and § 301.9100-3 of the Procedure and Administration Regulations to make the election not to be treated as a tax-exempt entity under § 168(h)(6)(F)(ii) of the Internal Revenue Code for Taxpayer’s Year1.

This letter ruling is being issued electronically in accordance with section 7.02(5) of Rev. Proc. 2024-1, 2024-1 I.R.B. 1, 34.

### FACTS

Taxpayer represents the facts are as follows:

Taxpayer is a limited liability company, treated as a corporation for federal income tax purposes, and formed under the state laws of Z. Taxpayer uses an accrual method as its overall accounting method and the calendar year as its annual accounting period. Taxpayer directly owns a 1% membership interest in Fee Owner.

Tax-exempt Entity owns all of the membership interests of Taxpayer. Taxpayer represents that it is therefore a tax-exempt controlled entity within the meaning of § 168(h)(6)(F)(iii).

Taxpayer represents that its investors specifically expected that Taxpayer would make the election not to be treated as a tax-exempt controlled entity under § 168(h)(6)(F)(ii). Further, Taxpayer represents that its Amended and Restated Operating Agreement reflects that Taxpayer intended to make the election not to be treated as a tax-exempt controlled entity under § 168(h)(6)(F)(ii) beginning with Year1.

Advisor1 was engaged to prepare Fee Owner's tax returns for Year1. Taxpayer mistakenly believed Advisor1 was also engaged to prepare Taxpayer's tax returns for Year1. As a result, Taxpayer did not timely file its federal income tax return for Year1. During Month1, Taxpayer engaged Advisor2 to prepare its Year1 tax returns, and Taxpayer's Year1 tax returns were filed on Date2, which was after the due date. Because an extension request was not timely filed, Taxpayer Year1 tax return was filed late. Advisor2 explained that the failure to timely file the tax return for Year1 meant the election not to be treated as a tax-exempt entity under §168(h)(6)(F)(ii) was not timely filed. However, because of changes in Taxpayer's personnel, Taxpayer was unable to prepare this private letter ruling request until after Period1. Taxpayer engaged Advisor2 to submit this private letter ruling request.

Taxpayer represents that, in failing to make the election, it acted reasonably and in good faith because Taxpayer exercised reasonable diligence and reasonably relied on the expertise of Advisor1, and that granting an extension of time to make the election under § 168(h)(6)(F)(ii) will not prejudice the interests of the Government.

### RULING REQUESTED

Taxpayer requests that the Internal Revenue Service grant it an extension of time under § 301.9100-1 and § 301.9100-3 to make the election under § 168(h)(6)(F)(ii) for Taxpayer's Year1.

## LAW

Section 167(a) generally provides for a depreciation deduction for property used in a trade or business. The depreciation deduction provided by § 167(a) for tangible property placed in service after 1986 is generally determined under § 168. Under § 168(g), the alternative depreciation system must be used for any tax-exempt use property as defined in § 168(h).

Section 168(h)(6)(A) provides that, for purposes of § 168(h), if any property not tax-exempt property is owned by a partnership having both a tax-exempt entity and non-exempt entity as partners and any allocation to the tax-exempt entity is not a qualified allocation, then an amount equal to such tax-exempt entity's proportionate share of such property is treated as tax-exempt use property.

Section 168(h)(6)(F)(i) provides generally that any tax-exempt controlled entity is treated as a tax-exempt entity for purpose of §§ 168(h)(5) and (h)(6). Under § 168(h)(6)(F)(iii)(I), a corporation (without regard to that subparagraph and § 168(h)(2)(E)) constitutes a "tax-exempt controlled entity" if 50-percent or more (in value) of the corporation's stock is held by one or more tax-exempt entities (other than a foreign person or entity).

Under § 168(h)(6)(F)(ii), a tax-exempt controlled entity may elect to not be treated as a tax-exempt entity. Once made, the election is irrevocable and will bind all tax-exempt entities holding an interest in the tax-exempt controlled entity.

Under § 301.9100-7T(a)(1), a § 168(h)(6)(F)(ii) election must be made in accordance with the rules provided in §§ 301.9100-7T(a)(2) and (a)(3). Under § 301.7701-7T(a)(2)(i), a § 168(h)(6)(F)(ii) election must be made by the due date of the tax return for the first taxable year for which the election is to be effective. Section 301.9100-7T(a)(3)(i) provides that the § 168(h)(6)(F)(ii) election must be made by attaching a statement to the tax return for the taxable year in which the election is to be effective.

Section 301.9100-1(c) provides that the Commissioner has the discretion to grant a reasonable extension of time under the rules set forth in § 301.9100-2 and § 301.9100-3 to make certain regulatory elections.

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 a regulatory election. Section 301.9100-2 provides automatic extensions of time for certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requires of § 301.9100-2.

Section 301.9100-1(b) defines a regulatory election as one whose due date is prescribed by regulations published in the Federal Register, a revenue ruling, revenue

procedure, notice, or announcement published in the Internal Revenue Bulletin. Because the due date of the § 168(h)(6)(F)(ii) election is prescribed by § 301.9100-7T(a)(2)(i), the requested § 168(h)(6)(F)(ii) election is a regulatory election.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when a taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the Government.

Section 301.9100-3(c)(1)(ii) provides that the interests of the Government are ordinarily prejudiced if the taxable year in which the regulatory election should have been made or any taxable years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under § 6501(a) before the taxpayer's receipt of a ruling granting relief under § 301.9100-3. The Service may condition a grant of relief on the taxpayer providing the Service with a statement from an independent auditor (other than an auditor providing an affidavit pursuant to § 301.9100-3(e)(3)) certifying that the interests of the Government are not prejudiced under the standards set forth in § 301.9100-3(c)(1)(i).

#### CONCLUSION

Based solely on the facts as represented and the applicable law, we conclude that the requirements of § 301.9100-1 and § 301.9100-3 have been satisfied. Taxpayer is granted an extension of 60 calendar days from the date of this letter ruling to file the election statement with the appropriate service center containing the information required by § 301.9100-7T(a)(3) for the election to be effective Year1.

Taxpayer must attach a copy of this letter ruling to the election statement. Further, this letter ruling should be attached to all subsequent returns (and amended returns) for all taxable years to which this letter ruling is relevant. If Taxpayer files its amended return electronically, it may satisfy this requirement by attaching a statement to its amended return that provides the date and control number of this letter ruling. Pursuant to § 301.9100-7T(a)(3)(ii), a copy of this letter ruling as the § 168(h)(6)(F)(ii) election statement also should be attached to the Federal income tax returns of each of the tax-exempt shareholders or beneficiaries of Taxpayer.

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, all material is subject to verification on examination.

Except as expressly provided 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.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

DEENA M. DEVEREUX  
Branch Chief, Branch 7  
Office of Chief Counsel  
(Income Tax & Accounting)

cc: