

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

In Re: Private Letter Ruling

Refer Reply To:
CC:ITA:B01
PLR-117531-25
Date:
January 29, 2026

Legend:

Year =
\$C =
\$R =
\$N =

Dear _____ :

This letter responds to your August 27, 2025, letter in which you request permission under Treas. Reg. § 1.163(d)-1(c) of the Income Tax Regulations to partially revoke your timely filed election made in accordance with Treas. Reg. § 1.163(d)-1(b) to treat net capital gain as investment income pursuant to section 163(d)(4)(B).

FACTS:

You represent the following:

You retained a qualified tax professional to prepare your Year federal income tax return, which included a net capital gain election to be made in accordance with section 163(d)(4)(B) and Treas. Reg. § 1.163(d)-1(b). In completing Form 4952, Investment Interest Expense Deduction, your qualified tax professional inadvertently elected to treat \$N of net capital gain as investment income instead of \$C of net capital gain. You request permission under Treas. Reg. § 1.163(d)-1(c) to revoke \$R of the net capital gain election, which would result in an election of \$C of net capital gain treated as investment income. The period of limitation on assessment under section 6501(a) for Year has not expired.

LAW

Section 163(d) provides that, in the case of a taxpayer other than a corporation, the amount allowed as a deduction for investment interest shall not exceed the net investment income of that taxpayer for the taxable year.

Section 163(d)(4)(B) provides, in part, that investment income is the sum of:

- (i) Gross income from property held for investment (other than gain taken into account under clause (ii)(I),
- (ii) The excess (if any) of –
 - (I) The net gain attributable to the disposition of property held for investment, over
 - (II) The net capital gain determined by only taking into account gains and losses from the disposition of property held for investment, plus
- (iii) So much of the net capital gain referred to in clause (ii)(II) (or, if lesser, the net gain referred to in clause (ii)(I)) as the taxpayer elects to take into account under this clause.

Treas. Reg. § 1.163(d)-1(b) provides, in relevant part, that the election for net capital gain must be made on or before the due date (including extensions) of the income tax return for the taxable year in which the net capital gain is recognized. The election is to be made on Form 4952 in accordance with the form and its instructions.

Treas. Reg. § 1.163(d)-1(c) provides that a net capital gain election described in section 163(d)(4)(B) and Treas. Reg. § 1.163(d)-1 is revocable with the consent of the Commissioner.

CONCLUSION

Based solely on the facts submitted and representations made, we hereby grant permission to revoke your election to treat \$R of net capital gain income as investment income under section 163(d)(4)(B).

The revocation should be made on a complete and properly prepared amended federal income tax return attached to which should be a copy of this letter. This amended return must be filed with the Service within 120 days from the date of this letter.

The rulings contained in this letter are based upon information and representations submitted by the taxpayers 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 requesting it. Section 6110(k)(3) 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,

Theresa M. Melchiorre
Senior Technician Reviewer (Branch 1)
(Income Tax & Accounting)

cc