

Internal Revenue Service

Department of the Treasury
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Person To Contact:
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Date:
April 1, 2026

Legend

- Taxpayer =
- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =
- Amount A =
- Accountant =
- CPA Firm =
- State =
- Year 1 =
- Year 2 =
- Year 3 =
- Managing Member =
- Month =

Dear :

This letter refers to a request for a private letter ruling, dated Date 1, filed on behalf of Taxpayer. Specifically, Taxpayer is requesting a ruling for relief under sections 301.9100-1 and 301.9100-3 of the Procedure and Administrative Regulations, granting an extension of time to make a timely election under section 1.1400Z2(d)-1(a)(2)(i) of the Income Tax Regulations to self-certify as Qualified Opportunity Fund (QOF), as defined in section 1400Z-2(d) of the Internal Revenue Code, effective Date 2.

FACTS

The Taxpayer represents the facts as follows:

Taxpayer is organized as a limited liability company under the laws of State and is treated as a partnership for Federal income tax purposes. Taxpayer uses the accrual method of accounting on a calendar year basis. Taxpayer is majority owned by Managing Member, with three other members owning minority interests.

Taxpayer was formed for the purpose of making investments in Qualified Opportunity Zones and operating as a QOF under section 1400Z-2(d)(1).

Managing Member engaged the services of Accountant for preparation of his individual and certain returns of partnerships, including those of Taxpayer, and other businesses owned by Managing Member, for over Amount A years. Specifically, Accountant prepared Taxpayer's partnership returns from formation through the year ending Date 3. Managing Member also consulted a team of tax and legal advisors, including Accountant, regarding investments in real estate and QOFs.

Managing Member's tax team had multiple discussions regarding the formation and funding of various QOFs, including Taxpayer. Accountant participated in these discussions and was provided with Taxpayer's operating agreement, indicating an intent to elect to self-certify as a QOF.

Taxpayer's management was familiar with the formation and investment in QOFs, but was not aware that Form 8996, *Qualified Opportunity Fund*, was required to be filed with Taxpayer's returns. In connection with the preparation of Taxpayer's Year 1 Form 1065, Taxpayer provided Accountant with Taxpayer's Year 1 financial data and qualified opportunity zone business investment information in Month Year 2. Taxpayer relied on Accountant to prepare and timely file Taxpayer's Year 1 partnership return, including the required returns and forms necessary to self-certify as a QOF. Accountant was not aware of the QOF self-certification filing requirements and prepared Taxpayer's Year 1 Form 1065 without an attached Form 8996. As a result, Taxpayer's Year 1 Form 1065 was timely filed on extension without an attached Form 8996.

In Year 3, CPA Firm was engaged to review Taxpayer's records related to a merger. While conducting the review, CPA Firm discovered that Taxpayer had not included a Form 8996 with their Form 1065 for Year 1. On Date 4, Taxpayer filed a Form 8082, *Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR)*, to extend the period of limitations for its Year 1 Form 1065 and attached to the Form 8082 a Form 8996 for Year 1. Shortly thereafter, Taxpayer engaged CPA Firm to prepare this request for an extension of time for Taxpayer to self-certify as a QOF, effective Date 2.

LAW AND ANALYSIS

Section 1400Z-2(e)(4)(A) directs the Secretary to prescribe regulations for rules for the certification of QOFs. Section 1.1400Z2(d)-1(a)(2) provides the rules for an entity to self-certify as a QOF. Section 1.1400Z2(d)-1(a)(2)(i) provides that the entity electing to

be certified as a QOF must do so annually on a timely filed return 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, *Qualified Opportunity Fund*, with its tax return for the year to which the certification applies. The Form 8996 must be filed by the due date of the tax return (including extensions). The information provided indicates that Taxpayer did not file its Form 8996 due to Accountant's failure to include the Form 8996 with Taxpayer's Year 1 partnership return.

Because section 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 section 301.9100-1(b).

Sections 301.9100-1 through 301.9100-3 provide the standards that the Commissioner 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 extensions covered in section 301.9100-2) will be granted when the taxpayer provides evidence (including affidavits) to establish that the taxpayer acted reasonably and in good faith and the grant of relief will not prejudice the interests of the government.

Under section 301.9100-3(b), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer requests relief before the failure to make the regulatory election is discovered by the Service, or reasonably relied on a qualified tax professional, and the tax professional failed to make, or advise the taxpayer to make, the election. However, a taxpayer is not considered to have reasonably relied on a qualified tax professional if the taxpayer knew or should have known that the professional was not competent to render advice on the regulatory election or was not aware of all relevant facts.

In addition, section 301.9100-3(b)(3) provides that a taxpayer is deemed not to have acted reasonably and in good faith if the taxpayer—

- (i) seeks to alter a return position for which an accuracy-related penalty has been or could be imposed under section 6662 at the time the taxpayer requests relief, and the new position requires or permits a regulatory election for which relief is requested;
- (ii) was fully informed in all material respects of the required election and related tax consequences but chose not to make 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)(1) provides that the Commissioner will grant a reasonable extension of time to make the regulatory election only when the interests of the Government will not be prejudiced by the granting of relief.

Section 301.9100-3(c)(1)(i) provides that 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 (taking into account the time value of money).

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 year that would have been affected by the election had it been timely made are closed by the period of limitations on assessment before the taxpayer's receipt of a ruling granting relief under this section.

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. Taxpayer reasonably relied on a qualified tax professional, and the professional failed to make, or advise the taxpayer to make, the self-certification election on Form 8996. Consequently, the Form 8996 attached to Taxpayer's Form 8082, filed Date 4, is considered timely filed, and Taxpayer has thereby made the election under § 1400Z-2 and § 1.1400Z2(d)-1(a)(2)(i) to self-certify as a QOF for Year 1. Taxpayer should submit a copy of this letter ruling to the Service Center where Taxpayer files its returns along with a cover letter requesting that the Service associate this ruling with the Year 1 Form 1065.

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

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. Specifically, we express no opinion, either express or implied, concerning whether any investments made into Taxpayer are qualifying investments as defined in section 1.1400Z2(a)-1(b)(34) or whether the 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 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) 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.

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.

Sincerely,

Amy J. Pfalzgraf
Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: