Internal Revenue Service

Number: **202630001**
Release Date: 7/24/2026

Index Number: 9100.04-00

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B07
PLR-103479-26

Date:
April 28, 2026

Re: Request for Extension of Time to Make the Election Not to be Treated as a Tax-Exempt Entity

Legend

Taxpayer	=
Tax-Exempt Entity	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Taxable Year 1	=
Year 1	=
Year 2	=
Firm 1	=
Firm 2	=
X	=
Y	=
Entity 1	=
Entity 2	=

Dear :

This letter responds to Taxpayer's letter dated Date 1, submitted on behalf of Taxpayer by Taxpayer's authorized representatives, requesting an extension of time pursuant to §§ 301.9100 and 301.9100-3 of the Procedure and Administration

Regulations to elect not to be treated as a tax-exempt entity beginning with Taxable Year 1.

This letter ruling is being issued electronically in accordance with section 7.02(5) of Rev. Proc. 2026-1, 2026-1 I.R.B. 1, 34.

FACTS

Taxpayer represents that the facts are as follows:

Taxpayer, a corporation for federal tax purposes, was formed on Date 2. Taxpayer uses the calendar year as its annual accounting period.

Taxpayer is wholly owned by Tax-Exempt Entity, a tax-exempt organization. Tax-Exempt Entity holds a X% partnership interest in Entity 1, and Entity 1 owns a Y% partnership interest in Entity 2. Section 5.3(mm) of Taxpayer's operating agreement stated that "[n]o portion of the Project is or will be treated as 'tax exempt use property' as defined in § 168(h) of the Code nor will any portion of the project be leased to a tax-exempt entity."

Taxpayer engaged Firm 2 to prepare its federal tax returns for Year 1 and Year 2. Firm 2 timely filed the Year 1 and Year 2 tax returns but omitted the election under §168(h)(6)(F)(ii) of the Internal Revenue Code (§ 168(h)(6)(F)(ii) election). Firm 2 was responsible for the preparation and filing of the tax returns for Taxpayer, Entity 1, and Entity 2. On Date 3, Firm 1 was engaged by Entity 1 and Entity 2 to prepare their tax returns for Taxable Year 1. Firm 2 was still responsible for preparing Taxpayer's return for Taxable Year 1, including any extensions of time to file for Taxable Year 1. Taxpayer believed that the applicable extension of time to file its return for Taxable Year 1 was filed by Firm 2; however, in fact, the extension was not filed. Taxpayer placed in service depreciable assets in Taxable Year 1.

On Date 4, after the unextended due date for the tax return for Taxable Year 1, Taxpayer engaged Firm 1 to prepare its federal Form 1120 for Taxable Year 1. Since a timely filed extension had not been filed for the tax return for Taxable Year 1, Taxpayer was unable to file a timely § 168(h)(6)(F)(ii) election.

Taxpayer represents that, in requesting this letter ruling, it acted reasonably and in good faith because Taxpayer reasonably relied on the expertise of qualified tax advisor and, as a result, the a timely election under § 168(h)(6)(F)(ii) was not made, 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.

Because Taxpayer is treated as a corporation for federal tax purposes and is wholly owned by Tax-Exempt Entity, Taxpayer is a tax-exempt controlled entity within the meaning of § 168(h)(6)(F)(iii).

RULING REQUESTED

Taxpayer requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make an election under § 168(h)(6)(F)(ii) to not be treated as a tax-exempt entity beginning with Taxable Year 1.

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-tax-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 purposes of § 168(h)(5) and (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 can elect not to 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)(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 a regulatory election.

Section 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 making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-1(b) defines a regulatory election as one whose due date is prescribed by regulations in the Federal Register, a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. Because the due date of the 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.

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. Accordingly, Taxpayer is granted an extension of 60 calendar days from the date of this letter ruling to file the election statement with its amended federal tax return containing the information required by § 301.9100-7T(a)(3) for the election to be effective for Taxable Year 1. In this regard, we will consider the filing of the § 168(h)(6)(F)(ii) election statement to be timely made.

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 and the § 168(h)(6)(F)(ii) election statement also should be attached to the Federal income tax return of the tax-exempt member of Taxpayer.

The ruling contained in this letter is 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 a ruling, 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.

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. 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.

Pursuant to the Form 2848, Power of Attorney and Declaration of Representative, on file, we are sending a copy of this letter to Taxpayer's authorized representatives. We are also sending a copy of this letter ruling to the appropriate Service operating division official.

Sincerely,

AMY S. WEI
Senior Technician Reviewer, Branch 7
Office of Associate Chief Counsel
(Income Tax & Accounting)

Enclosure:
copy of this letter for section 6110 purposes

cc: