

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

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CC:INTL:B02

PLR-120493-25

Date:

June 23, 2026

TY:

Legend

Taxpayers =

Husband =

Company A =

FC =

Country X =

Tax Professional =

Accounting Firm =

Year 1 =

Year 2 =

Dear :

This is in response to a letter submitted on Taxpayers' behalf by an authorized representative requesting the consent of the Commissioner of the Internal Revenue Service ("Commissioner") to make a retroactive qualified electing fund ("QEF") election under section 1295(b) of the Internal Revenue Code (the "Code") and Treas. Reg. § 1.1295-3(f) with respect to Taxpayers' investment in FC.

The ruling contained in this letter is based upon information and representations submitted by 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 ruling, it is subject to verification on examination.

FACTS

Taxpayers are both U.S. persons who file their federal income tax return under the status married filing jointly. In Year 1, husband acquired stock in FC, a Country X corporation, as a result of his employment at domestic Company A. FC was a passive foreign investment company ("PFIC") within the meaning of section 1297(a) on the date that Taxpayers acquired stock in FC. Taxpayers' interest in FC throughout their holding period was less than 1 percent. No information was provided to Taxpayers that indicated that the stock acquired was in a PFIC.

During the relevant years, Taxpayers engaged Tax Professional to prepare their federal income tax returns. Tax Professional was a partner at Accounting Firm, which is a national accounting firm. Tax Professional was competent to render tax advice, including with respect to Taxpayers' investment in FC. Taxpayers provided Tax Professional with all of the available relevant tax and financial information to prepare and file their tax returns. Taxpayers informed Tax Professional about their stock holdings, but Taxpayers did not provide Tax Professional any additional information about FC, and Tax Professional did not request any such information because they did not recognize that Taxpayers owned shares in a foreign corporation. Further, Taxpayers did not have any reason to believe they owned shares in a PFIC. As a result, Tax Professional failed to identify FC as a PFIC and failed to advise Taxpayers of the consequences of making, or failing to make, a QEF election with respect to their investment in FC.

At the end of Year 2, FC had a liquidity event due to restructuring, at which time, FC purchased all of Taxpayers' shares in FC. It was at this time Taxpayers learned that they owned shares in a foreign corporation. Shortly after the stock purchase, husband learned from another FC shareholder about PFICs and QEF elections. This motivated Taxpayers to ask Tax Professional about QEF elections. Subsequently, Taxpayers requested PFIC annual information statements from FC and Taxpayers confirmed that FC was a PFIC.

Taxpayers submitted affidavits, under penalties of perjury, describing the events that led to the failure to make the QEF election by the election due date; the discovery of the failure; the engagement and responsibilities of Tax Professional; and the extent to which Taxpayers relied on Tax Professional. Taxpayers also submitted an affidavit, under penalties of perjury, from Tax Professional describing Tax Professional's engagement and responsibilities as well as the advice concerning the tax treatment of FC that Tax Professional provided. In addition, Taxpayers represent that, as of the date of this request for ruling, the PFIC status of FC had not been raised by the IRS on audit for any of the taxable years at issue.

RULING REQUESTED

Taxpayers request the consent of the Commissioner to make a QEF election retroactive to Year 1 under Treas. Reg. § 1.1295-3(f) with respect to their investment in FC.

LAW

Section 1295(a) provides that a PFIC will be treated as a QEF with respect to a shareholder if (1) an election by the shareholder under section 1295(b) applies to the PFIC for the taxable year; and (2) the PFIC complies with the requirements prescribed by the Secretary for purposes of determining the ordinary earnings and net capital gains of the company.

Under section 1295(b)(2), a QEF election may be made for a taxable year at any time on or before the due date (determined with regard to extensions) for filing the return for the taxable year. To the extent provided in regulations, the election may be made after the due date if the shareholder failed to make an election by the due date because the shareholder reasonably believed the company was not a PFIC.

Under Treas. Reg. § 1.1295-3(f), a shareholder may request the consent of the Commissioner to make a retroactive QEF election for a taxable year if:

1. the shareholder reasonably relied on a qualified tax professional, within the meaning of Treas. Reg. § 1.1295-3(f)(2);
2. granting consent will not prejudice the interests of the United States government, as provided in Treas. Reg. § 1.1295-3(f)(3);
3. the request is made before a representative of the Internal Revenue Service raises upon audit the PFIC status of the company for any taxable year of the shareholder; and
4. the shareholder satisfies the procedural requirements of Treas. Reg. § 1.1295-3(f)(4).

The procedural requirements include filing a request for consent to make a retroactive election with, and submitting a user fee to, the Office of the Associate Chief Counsel (International). Treas. Reg. § 1.1295-3(f)(4)(i). Additionally, affidavits signed under penalties of perjury must be submitted that describe:

1. the events that led to the failure to make a QEF election by the election due date;
2. the discovery of the failure;
3. the engagement and responsibilities of the qualified tax professional; and
4. the extent to which the shareholder relied on the professional.

Treas. Reg. § 1.1295-3(f)(4)(ii) and (iii).

CONCLUSION

Based on the information submitted and representations made with Taxpayers' ruling request, we conclude that Taxpayers have satisfied Treas. Reg. § 1.1295-3(f). Accordingly, consent is granted to Taxpayers to make a retroactive QEF election with

respect to FC for Year 1 provided that Taxpayers comply with the rules under Treas. Reg. § 1.1295-3(g) regarding the time and manner for making the retroactive QEF election.

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 taxpayers 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, copies of this letter ruling are being sent to your authorized representatives.

Sincerely,

/s/ Melinda E. Harvey

Melinda E. Harvey
Branch Chief, Branch 2
Associate Chief Counsel (International)

Cc: