Internal Revenue Service

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LEGEND:

Taxpayer	=
Sponsor	=
Firm	=
Partnership	=
Corporations	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Date 5	=

Dear   :

This ruling responds to a letter dated March 5, 2018, submitted on behalf of Taxpayer. Taxpayer requests an extension of time under sections 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations (the "Regulations") to make an election under section 856(l) of the Internal Revenue Code (the "Code") to treat Corporations as taxable REIT subsidiaries ("TRS") of Taxpayer effective as of Date 1.

FACTS

Taxpayer represents that it made an election to be treated as a real estate investment trust ("REIT") under section 856 of the Code, commencing with its taxable year that ended on Date 2. Taxpayer indirectly owns and leases land, cellular towers, distributed antenna systems, and interests in Corporations.

Taxpayer is sponsored by Sponsor. On Date 1, Taxpayer (through a disregarded entity) acquired an interest in Partnership. Partnership owns and leases land, cellular towers, distributed antenna systems and interests in Corporations. On Date 3, Sponsor engaged Firm to conduct tax due diligence in connection with, and prior to, Taxpayer's acquisition of its interest in Partnership. Firm prepared and delivered a due diligence report to Taxpayer that noted Partnership's ownership interest in Corporations. The tax due diligence report stated that Corporations did not appear to hold material assets or conduct material operations but did not discuss the REIT qualification issues that may arise due to the ownership of Corporations. In particular, although the tax due diligence report discussed tax compliance steps to be taken following the acquisition of the interest in partnership, it did not discuss TRS elections in connection with Taxpayer's REIT qualification.

Sponsor, on Behalf of Taxpayer, engaged Firm to provide REIT tax compliance services for the Taxpayer year ending Date 2. In connection with the review of Taxpayer's returns for the year ending Date 2, Sponsor's counsel discovered Taxpayer's failure to timely file TRS elections for Corporations. Sponsor's counsel discussed the matter with a partner at Firm with responsibility for taxpayer's REIT tax compliance services, including the possibility that the interests in Corporations could potentially result in Taxpayer failing its REIT-qualifying asset test under section 856(c)(4) for a relevant quarter in which a TRS election was not in effect.

Upon discovery of this risk and upon advice from Firm, Taxpayer promptly filed Forms 8875, Taxable REIT Subsidiary Election, on Date 4 to make a joint TRS election with Corporations retroactive to Date 5, the earliest date on which the TRS election could be effective without the relief sought in this letter ruling.

After further consultation with outside legal counsel, Taxpayer determined that it would be appropriate and prudent to request relief to treat Corporations as TRSs as of Date 1, the Date on which Taxpayer was formed and the interest in partnership was acquired.

Taxpayer makes the following additional representations in connection with this ruling request:

1. The request for relief was filed before the failure to make the regulatory election was discovered by the Service.

2. Granting the relief requested will not result in Taxpayer or Corporations having a lower U.S. federal tax liability in the aggregate for all years to which the election applies than they would have had if the election had been timely made (taking into account the time value of money).

3. Taxpayer did not seek to alter a return position for which an accuracy-related penalty has been or could have been imposed under section 6662 of the Code at the time they requested relief and the new position requires or permits a regulatory election for which relief is requested.

4. Being fully informed of the required regulatory election and related tax consequences, Taxpayer did not choose to not file the election.

5. Taxpayer and Corporations are not using hindsight in making the decision to seek the relief requested. No specific facts have changed since the due date for making the election that make the election advantageous to Taxpayer or Corporations.

6. The period of limitations on assessment under section 6501(a) has not expired for Taxpayer or Corporations for the taxable year in which the election should have been filed, nor for any taxable year(s) that would have been affected by the election had it been timely filed.

In addition, affidavits on behalf of Taxpayer and Corporations have been provided as required by section 301.9100-3(e) of the Regulations.

LAW AND ANALYSIS

Section 856(l) of the Code provides that a REIT and a corporation (other than a REIT) may jointly elect to treat such corporation as a TRS. To be eligible for treatment as a TRS, section 856(l)(1) provides that the REIT must directly or indirectly own stock in the corporation, and the REIT and the corporation must jointly elect such treatment. The election is irrevocable once made, unless both the REIT and the subsidiary consent

to its revocation. In addition, section 856(l) specifically provides that the election, and any revocation thereof, may be made without the consent of the Secretary.

In Announcement 2001-17, 2001-1 C.B. 716, the Service announced the availability of new Form 8875, Taxable REIT Subsidiary Election. According to the Announcement, this form is to be used for taxable years beginning after 2000 for eligible entities to elect treatment as a TRS. The instructions to Form 8875 provide that the subsidiary and the REIT can make the election at any time during the taxable year. However, the effective date of the election depends on when the Form 8875 is filed. The instructions further provide that the effective date cannot be more than 2 months and 15 days prior to the date of filing the election, or more than 12 months after the date of filing the election. If no date is specified on the form, the election is effective on the date the form is filed with the Service.

Section 301.9100-1(c) of the Regulations provides that the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by regulations or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin.

Section 301.9100-3(a) through (c)(1) sets forth rules that the Service generally will use to determine whether, under the particular facts and circumstances of each situation, the Commissioner will grant an extension of time for regulatory elections that do not meet the requirements of section 301.9100-2. Section 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in section 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Section 301.9100-3(b) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer (i) requests relief under this section before the failure to make the regulatory election is discovered by the Service; (ii) failed to make the election because of intervening events beyond the taxpayer's control; (iii) failed to make the election because, after exercising reasonable diligence (taking into account the taxpayer's experience and the complexity of the return or issue), the taxpayer was unaware of the necessity for the election; (iv) reasonably relied on the written advice of the Service; or (v) reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election. A taxpayer will be deemed to have not 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 informed in all material respects of the required election and related tax consequences, but chose not to file the election; or (iii) uses hindsight in requesting relief.

Section 301.9100-3(c)(1) provides that a reasonable extension of time to make a regulatory election will be granted 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 the 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 years that would have been affected by the election had it been timely made are closed by the period of limitations on assessment under section 6501(a) before the taxpayer's receipt of a ruling granting relief under this section.

CONCLUSION

Based on the information submitted and the representations made, we conclude that Taxpayer has satisfied the requirements for granting a reasonable extension of time to elect under section 856(l) to treat Corporations as TRSs of Taxpayer, effective Date 1. Accordingly, Taxpayers may treat Corporations as TRSs of Taxpayer, effective Date 1.

This ruling is limited to the timeliness of the filing of Form 8875. This ruling's application is limited to the facts, representations, and Code and regulation sections cited herein.

Except as 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. In particular, no opinion is expressed as to whether Taxpayer qualifies as a REIT, or whether Corporations otherwise qualify as TRSs of Taxpayer under part II of subchapter M of the Code.

No opinion is expressed with regard to whether the tax liability of Taxpayer or Corporations is not lower in the aggregate for all years to which the election applies than such tax liability would have been if the election had been timely made (taking into account the time value of money). Upon audit of the U.S. federal income tax returns involved, the director's office will determine such tax liability for the years involved. If the director's office determines that such tax liability is lower, that office will determine the U.S. federal income tax effect.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and Corporations and accompanied by penalty of perjury statements executed by the appropriate parties. 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 taxpayers that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the terms of a power of attorney on file in this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

_____
Robert Martin
Senior Technician Reviewer, Branch 1
Office of the Associate Chief Counsel
(Financial Institutions & Products)

Enclosure:

Copy of this for section 6110 purposes