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PLR-111091-25

Date:

June 10, 2025

Legend

Taxpayer =

Parent =

Plant =

Location =

Method =

Commission A =

Commission B =

Cost Study 1 =

Cost Study 2 =

Company 1 =

Order 1 =

Order 2 =

A =

B =

C =

D =

E =

F =

Date 1 =

a =

b =

c =

d =

e =

Year 1 =

Year 2 =
Year 3 =
Year 4 =
Year 5 =

Dear :

This letter supplements and modifies PLR-105048-23, issued January 2, 2024, in response to your request for a mandatory revised schedule of ruling amounts under § 468A(d)(3) of the Internal Revenue Code and § 1.468A-3(f)(1) of the Income Tax Regulations. The Internal Revenue Service (Service) has approved previous requests for a schedule of ruling amounts for Plant, most recently on Date 1.

Taxpayer represents that, at the time this ruling request was submitted, the facts were as follows:

FACTS

Taxpayer is a subsidiary of Parent and member of Parent's consolidated group. Parent is under the audit jurisdiction of the LB&I Director, Western Compliance Practice Area. Taxpayer owns A percent of the qualifying interest in Plant at Location. Taxpayer maintains a nuclear decommissioning reserve fund (the "Fund") for Plant.

With respect to nuclear decommissioning costs of Plant which are included in the Taxpayer's cost of service for ratemaking purposes, the Taxpayer is subject to regulation by the Commission A (B percent) and the Commission B (C percent).

In Order 1, Commission A fixed the amount to be included in cost of service for annual contributions to the Fund at \$a for the years Year 1 through Year 2 (and \$b for Year 3 to reflect a partial year). In Order 2, Commission A adopted the same amount of decommissioning costs of Plant to be included in cost of service for annual contribution to the Fund.

The proposed method of decommissioning Plant is Method. The estimated year in which substantial decommissioning costs will first be incurred is Year 3. The estimated year in which the decommissioning of Plant will be substantially complete is Year 4.

In determining the decommissioning revenue requirement in Order 1 and Order 2, Commission A relied on the estimated decommissioning costs in Cost Study 1, conducted by Company 1. Taxpayer is basing this request for a revised schedule of ruling amounts on the Order 1, Order 2, and the more recent Cost Study 2, also conducted by Company 1. According to Cost Study 2, the total estimated cost of decommissioning Plant expressed in Year 5 dollars is \$c. This estimated cost was used

as a base cost for decommissioning Taxpayer's interest in Plant. Taxpayer's A% share of decommissioning costs in Year 5 dollars is \$d. Taxpayer's share of total estimated future cost of decommissioning in Year 3 dollars is \$e. The methodology used to convert Year 5 dollars to Year 3 dollars was by escalating the estimated costs at an inflation rate of D% to the year of estimated expenditure. The assumed after-tax rate of return to be earned by the amount collected for decommissioning is E% until ten years prior to the expiration of Plant's license and F% thereafter.

LAW AND ANALYSIS

Sections 468A(a) and 1.468A-1(a) provide that a taxpayer that elects the application of § 468A shall be allowed as a deduction for any taxable year the amount of any payments made by the taxpayer to a nuclear decommissioning fund during such taxable year. Section 1.468A-1(b)(1) provides that an eligible taxpayer is a taxpayer that possesses a qualifying interest in a nuclear power plant. Under § 1.468A-1(b)(2), the definition of the term "qualifying interest" includes a direct ownership interest.

Sections 468A(b) and 1.468A-2(b)(1) provide that the amount of payments made (or deemed made) by a taxpayer to a nuclear decommissioning fund during any taxable year shall not exceed the ruling amount applicable to such fund for such taxable year.

Section 468A(h) provides that a taxpayer shall be deemed to have made a payment to a nuclear decommissioning fund on the last day of a taxable year if such payment is made on account of such taxable year and is made within 2 ½ months after the close of such taxable year.

Section 468A(d)(1) provides that no deduction shall be allowed for any payment to a nuclear decommissioning fund unless the taxpayer requests and receives from the Secretary a schedule of ruling amounts. Section 468A(d)(2) provides that the term "ruling amount" means, with respect to any taxable year, the amount which the Secretary determines to be necessary to — (A) fund the total nuclear decommissioning cost of a nuclear power plant over the estimated useful life of such plant, and (B) prevent any excessive funding of such costs, or the funding of such costs at a rate more rapid than level funding, taking into account such discount rates as the Secretary deems appropriate. Section 468A(d)(3) provides that the Secretary shall at least once during the useful life of the nuclear power plant (or more frequently, upon the request of the taxpayer), review, and revise if necessary, the schedule of ruling amounts determined under § 468A(d)(1).

Section 1.468A-3(a)(1) provides that, in general, a schedule of ruling amounts for a nuclear decommissioning fund is a ruling specifying the annual payments (ruling amounts) that, over the taxable years remaining in the funding period as of the date the schedule first applies, will result in a projected balance of such fund as of the last day of the funding period equal to (and in no event more than) the amount of decommissioning costs allocable to such fund.

Section 1.468A-3(a)(2) provides that each schedule of ruling amounts must be consistent with the principles and provisions of § 1.468A-3 and must be based on reasonable assumptions concerning — (i) The after-tax rate of return to be earned by the assets of the nuclear decommissioning fund; (ii) The total estimated cost of decommissioning the nuclear power plant; and (iii) The frequency of contributions to such fund for a taxable year. Under § 1.468A-3(a)(3), the Service shall provide a schedule of ruling amounts identical to the schedule proposed by the taxpayer, but no schedule of ruling amounts shall be provided by the Service unless the taxpayer's proposed schedule is consistent with the principles and provisions of § 1.468A-3 and is based on reasonable assumptions.

Section 1.468A-3(a)(4) provides that the taxpayer bears the burden of demonstrating that the proposed schedule of ruling amounts is consistent with the principles and provisions of § 1.468A-3 and is based on reasonable assumptions. If a public utility commission established or approved the currently applicable rates for the furnishing or sale by the taxpayer of electricity from the nuclear power plant, the taxpayer can generally satisfy this burden of proof by demonstrating that the schedule of ruling amounts is calculated using the assumptions used by the public utility commission in its most recent order.

Section 1.468A-3(b)(1) provides that, in general, the ruling amount specified in a schedule of ruling amounts for any taxable year in the funding period shall not be less than the ruling amount specified in such schedule for any earlier taxable year.

Section § 1.468A-3(c)(1) provides that the funding period for a nuclear decommissioning fund is the period that — (i) Begins on the first day of the first taxable year for which a deductible payment is made (or deemed made) to such fund; and (ii) Ends on the last day of the taxable year that includes the last day of the estimated useful life of the nuclear power plant to which such fund relates.

Under § 1.468A-3(c)(2)(i)(A), except as provided in § 1.468A-3(c)(2)(ii), the last day of the estimated useful life of a nuclear power plant that has been included in the rate base for ratemaking purposes in any ratemaking proceeding that established rates for a period before January 1, 2006, is the date used in the first such ratemaking proceeding as the estimated date on which such plant will no longer be included in the taxpayer's rate base for ratemaking purposes.

Under § 1.468A-3(c)(2)(i)(B), except as provided in § 1.468A-3(c)(2)(ii), the last day of the estimated useful life of a nuclear power plant that is not described in § 1.468A-3(c)(2)(i)(A) is the last day of the estimated useful life of such plant determined as of the date it is placed in service. Under § 1.468A-3(c)(2)(i)(C), except as provided in § 1.468A-3(c)(2)(ii), a taxpayer with an interest in a plant that is not described in § 1.468A-3(c)(2)(i)(A) may use any reasonable method for determining the last day of such estimated useful life.

Under § 1.468A-3(c)(2)(ii), if it can be established that the estimated useful life of a nuclear power plant will end on a date other than the date determined under § 1.468A-3(c)(2)(i), the taxpayer may use such other date as the last day of the estimated useful life but is not required to do so. If the last day of the estimated useful life was determined under § 1.468A-3(c)(2)(i)(A) and the most recent ratemaking proceeding used an alternative date as the estimated date on which a nuclear power plant will no longer be included in the rate base, the most recent ratemaking proceeding will generally be treated as establishing such alternative date as the last day of the estimated useful life.

Section 1.468A-3(d)(1) provides that the amount of decommissioning costs allocable to a nuclear decommissioning fund is the taxpayer's share of the total estimated cost of decommissioning the nuclear power plant to which the fund relates.

Section 1.468A-3(e) provides the rules regarding the manner of requesting a schedule of ruling amounts.

Section 1.468A-3(e)(1)(v) provides that the Service will not provide or revise a ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts filed after the deemed payment deadline date (as defined in § 1.468A-2(c)(1)) for such taxable year. Under § 1.468A-2(c)(1), the deemed payment deadline date is the fifteenth day of the third calendar month after the close of any taxable year.

Section 1.468A-3(e)(2) enumerates the information that must be contained in a request for a schedule of ruling amounts.

Section 1.468A-3(e)(3) provides that the Service may prescribe administrative procedures that supplement the provisions of § 1.468A-3(e)(1) and (2), and may, in its discretion, waive the requirements of § 1.468A-3(e)(1) and (2) under appropriate circumstances.

Section 1.468A-3(f)(1)(i) provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to § 1.468A-3(e) must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline date for the tenth taxable year that begins after the taxable year in which the most recent schedule of ruling amounts was received. If the taxpayer calculated its most recent schedule of ruling amounts on any basis other than an order issued by a public utility commission, the taxpayer must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline date for the fifth taxable year that begins after the taxable year in which the most recent schedule of ruling amounts was received.

Section 1.468A-3(f)(1)(ii)(B) provides that any taxpayer that has determined its ruling amount for any taxable year under a formula prescribed by § 1.468A-6 must file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for its first taxable year that begins after the disposition.

Section 1.468A-6(e)(2)(ii) provides that a transferee of a qualifying interest in a nuclear power plant must file a request for a revised schedule of ruling amounts with respect to that interest on or before the deemed payment deadline for the first taxable year of the transferee beginning after the disposition.

Section 1.468A-3(f)(2) provides that any taxpayer that has obtained a schedule of ruling amounts pursuant to § 1.468A-3(e) can request a revised schedule of ruling amounts. Such a request must be made in accordance with the rules of § 1.468A-3(e). The Service will not provide a revised ruling amount applicable to a taxable year in response to a request for a schedule of ruling amounts that is filed after the deemed payment deadline date for such taxable year.

We have examined the representations and information submitted by Taxpayer in relation to the requirements set forth in § 468A and the regulations thereunder. Based solely upon the facts as represented by Taxpayer on the date of the request, we reach the following conclusions:

1. Taxpayer has a qualifying interest in Plant and is, therefore, an eligible taxpayer under § 1.468A-1(b)(1).
2. Taxpayer, as owner of A percent of Plant, has calculated its share of decommissioning costs under § 1.468A-3(d)(1).
3. The proposed schedule of ruling amounts was based on Order 1 and Order 2 issued by Commission A. The proposed schedule of ruling amounts was derived by following assumptions contained in Cost Study 1 and in the more recent Cost Study 2 that Taxpayer has represented is a standard type used in the industry.
4. Taxpayer has demonstrated, pursuant to § 1.468A-3(a)(4), that the proposed schedule of ruling amounts is based on reasonable assumptions and is consistent with the principles of § 468A and the regulations thereunder.
5. The maximum amount of cash payments made (or deemed made) to the Fund during any tax year shall not exceed the ruling amount applicable to the Fund for such taxable year as provided by § 1.468A-2(b)(1).

Based solely on the determinations above, we conclude that Taxpayer's proposed schedule of ruling amounts satisfies the requirements of § 468A. We have approved the following revised schedule of ruling amounts.

APPROVED SCHEDULE OF RULING AMOUNTS

Year	Ruling Amount
Each Year, Year 1 to Year 2	\$ <u>a</u>
Year 3	\$ <u>b</u>

Except as specifically determined above, no opinion is expressed or implied concerning the Federal income tax consequences of the transaction described above. Specifically, while we have approved the proposed schedule of ruling amounts based on cost estimates contained in Cost Study 2, we make no ruling, express or implied, whether any item contained in the Study constitutes a nuclear decommissioning cost within the meaning of § 1.468A-1(b)(6), or whether the decommissioning study conforms to industry standards and practices.

If an event described in § 1.468A-6(a) occurs during a taxable year to which this schedule of ruling amounts relates, Taxpayer is limited to making payments to the Fund prior to the date of such event, regardless of the amount approved in this schedule of ruling amounts.

This ruling is directed only to the Taxpayer who requested 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, copies of this letter ruling are being sent to your authorized representatives. A copy of this letter ruling is also being sent to the Director.

Pursuant to § 1.468A-7(a), a copy of this letter must be attached (with the required Election Statement), to Taxpayer's federal income tax return for each year in which Taxpayer claims a deduction for payment to the Fund.

Sincerely,

Maggie Stehn
Senior Counsel, Branch 2
Office of Associate Chief Counsel
(Energy, Credits, and Excise Tax)

Enclosure
Copy for § 6110 Purposes.

cc:

cc: