

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:ITA:B04

PLR-102035-25

Date:

June 25, 2025

LEGEND

Taxpayer	=
LLC	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=
Date 5	=
Date 6	=
Month 1	=
Month 2	=
Month 3	=
Year 1	=
Year 2	=
Managers	=
Advisor	=
Advisory Firm	=
State Z	=
\$x	=

Dear :

This letter responds to Taxpayer's request, dated Date 6, requesting a private letter ruling granting relief to make a late regulatory election pursuant to Treas. Reg. §§ 301.9100-1 and 301.9100-3¹ of the Procedure and Administration Regulations. Specifically, Taxpayer requests an extension of time to file a Form 8996, *Qualified Opportunity Fund*, to be treated as timely for purposes of the election (1) to self-certify

¹ Unless otherwise specified, all "section" or "§" references are to sections of the Internal Revenue Code of 1986, as amended, Title 26 U.S.C. ("Code"), or the Treasury Regulations (26 CFR Part 1 or 26 CFR Part 301).

as a qualified opportunity fund (QOF), as defined in section 1400Z-2(d), and (2) to be treated as a QOF, effective as of the month Taxpayer was formed, Month 1, as provided under section 1400Z-2(d) and § 1.1400Z2(d)-1(a).

This letter ruling is being issued electronically in accordance with Rev. Proc. 2025-1, 2025-1 I.R.B. 1. A paper copy will not be mailed to Taxpayer.

FACTS

Taxpayer has represented that the facts are as follows:

On Date 1, Managers sold property and recognized capital gain of \$x, which is eligible gain under § 1.1400Z2(a)-1(b)(11)(i). On Date 2, Managers formed Taxpayer as a limited liability company under the laws of State Z to be a QOF for the purpose of investing in qualified opportunity zone property under the meaning of section 1400Z-2(d)(2).

On Date 3, Managers contributed the \$x of eligible gain to Taxpayer, and Taxpayer invested \$x in LLC, a qualified opportunity zone business.

Managers engaged Advisor, a certified public accountant, and his firm, Advisory Firm, to prepare Taxpayer's initial partnership income tax return. During Month 1, Managers informed Advisor that they intended to organize a QOF. Late in Year 1, Managers informed Advisor that they had organized Taxpayer and intended to file a Form 8996 with Taxpayer's Year 1 tax return to elect for Taxpayer to be a QOF. Early in Year 2, Managers provided Advisor with information about the formation of Taxpayer. Taxpayer relied on Advisor and Advisory Firm to file a Form 1065, *U.S. Return of Partnership Income*, as well as a Form 8996 for Year 1. However, Advisor and Advisory Firm inadvertently failed to set Taxpayer up as a client in the tracking system used by Advisory Firm. As a result, Advisor failed to either request an extension to file the Year 1 Form 1065 by Date 4, or file Taxpayer's Year 1 Form 1065 and Form 8996 by Date 5.

During Month 3, Advisor realized the error and advised Taxpayer to submit this request for relief.

LAW AND ANALYSIS

Section 1400Z-2(e)(4)(A) directs the Secretary to prescribe regulations for the certification of QOFs. Section 1.1400Z2(d)-1(a)(2)(i) provides that the self-certification of a QOF must be timely filed and effectuated annually 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 with its tax return for the year to which the certification applies. Form 8996 must be filed by the due date of the tax return (including extensions). The information provided indicates that Taxpayer intended to self-certify as a QOF as of Month 1.

Because § 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 § 301.9100-3(b)(1).

Sections 301.9100-1 through 301.9100-3 provide the standards the Service 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 changes covered in § 301.9100-2) will be granted when the taxpayer acted reasonably and in good faith and granting relief will not prejudice the interests of the Government.

Section 301.9100-3(b)(1) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer—

- (i) Requests relief 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, 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, and the professional failed to make, or advise the taxpayer to make, the election.

Under § 301.9100-3(b)(3), a taxpayer will not be considered to have acted reasonably and in good faith if the taxpayer—

- (i) Seeks to alter a return position for which an accuracy-related penalty could be imposed under section 6662 at the time the taxpayer requests relief and the new position requires a regulatory election for which relief is requested;
- (ii) Was fully informed of the required election and related tax consequences, but chose not to file 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) provides that the Service will grant a reasonable extension of time only when the interests of the Government will not be prejudiced by the granting of relief. 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.

CONCLUSION

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. Accordingly, based solely on the facts and information submitted, and the representations made in the ruling request, we grant Taxpayer an extension of 60 days from the date of this letter ruling to file a Form 8996 to make the election to self-certify as a QOF under section 1400Z-2 and § 1.1400Z2(d)-1(a)(2)(i). The election must be made on a completed Form 8996 attached to the Taxpayer's tax return. This letter ruling grants an extension of time to file a Form 8996. This letter ruling does not grant an extension of time to file Taxpayer's Form 1065.

CAVEATS

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

This ruling addresses the granting of § 301.9100-3 relief as applied to the election to self-certify Taxpayer as a QOF, as of Month 1. Specifically, we have no opinion, either express or implied, concerning whether any investments made into Taxpayer are qualifying investments as defined in § 1.1400Z2(a)-1(b)(34) or whether 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 owned 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) 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, a copy of this letter is being sent to your authorized representatives.

Sincerely,

James Yu
Senior Counsel, Branch 4
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: