

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
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Telephone Number:

Refer Reply To:
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Date:
February 07, 2014

Legend:

Taxpayer =

year 1 =

year 2

date 1 =

date 2 =

date 3 =

Railroad 1 =

Railroad 2 =

Dear :

This letter responds to a letter dated September 9, 2013, submitted on behalf of Taxpayer by its authorized representative, requesting an extension of time under § 301.9100-1 of the Procedure and Administration Regulations to file Form 8900, Qualified Railroad Track Maintenance Credit, for its tax year ending date 1.

Taxpayer, a limited partnership that elected to be treated as a corporation for Federal tax purposes, owns and manages . Railroad 1 and Railroad 2 assigned Taxpayer railroad track miles for year 1 for purposes of § 45G of the Internal Revenue Code. Prior to filing its year 1 Form 1120, U.S. Corporation Income Tax

Return, Taxpayer restructured its tax department. As a result of the restructuring, personnel from the tax department ceased working for Taxpayer between date 2 and date 3. The management personnel who ceased working for Taxpayer included management personnel responsible for compliance with § 45G. Because of the restructuring Taxpayer and Taxpayer's tax preparer were not aware that the railroad track miles had been assigned from the railroads.

Upon discovering that railroad track miles had been assigned to Taxpayer for year 1, Taxpayer amended its year 1 Form 1120 in year 2 by attaching a Form 8900 and related statements, which included the assigned railroad track miles.

Taxpayer requests a ruling that it be granted an extension of time under § 301.9100-1 to file Form 8900 for year 1.

Under § 45G(a), the railroad track maintenance credit for the taxable year is equal to 50 percent of the qualified railroad track maintenance expenditures paid or incurred by an eligible taxpayer during the taxable year.

Under § 45G(c), the term "eligible taxpayer" means any Class II or Class III railroad, and any person who transports property using the rail facilities of a Class II or Class III railroad, or who furnishes railroad-related property or services to a Class II or Class III railroad, but only with respect to miles of railroad track assigned to such person by the Class II or Class III railroad.

Section 1.45G-1(a) of the Income Tax Regulations requires that a taxpayer claiming the railroad track maintenance credit must do so by filing Form 8900 with its timely filed (including extensions) Federal income tax return for the taxable year the railroad track maintenance credit is claimed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I.

Section 301.9100-1(b) provides that the term "regulatory election" means an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an 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. A request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

Based solely on the facts and the representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer's Form 8900 filed with its amended year 1 return will be considered timely filed for year 1 for purposes of § 1.45G-1(a). A copy of this letter should be sent to the appropriate service center with a request that it be associated with Taxpayer's amended tax return for year 1. A copy is enclosed for that purpose.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provisions of the Code. In particular, we express no opinion on whether Taxpayer's expenditures qualify for the railroad track maintenance credit.

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.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by penalty of perjury statements executed by 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.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative. Also, we are sending a copy of this letter to the appropriate LB&I official.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By: /s/ Paul F. Handleman
Paul F. Handleman, Chief
Branch 5
Office of Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter
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