

**Internal Revenue Service**

Department of the Treasury  
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Person To Contact:  
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CC:ITA:B04  
PLR-118715-19

Date:  
February 06, 2020

**LEGEND**

|          |   |
|----------|---|
| Taxpayer | = |
| Advisor  | = |
| State Z  | = |
| Date 1   | = |
| Date 2   | = |
| Date 3   | = |
| Date 4   | = |
| Year 1   | = |

Dear :

This responds to Taxpayer’s request dated August 6, 2019. Specifically, Taxpayer requests relief under Treasury Regulation §§ 301.9100-1 and 301.9100-3 for Taxpayer’s Form 8996 (Qualified Opportunity Fund), as filed on Date 4, to be treated as timely for purposes of the election: (1) to self-certify the Taxpayer as a qualified opportunity fund (QOF), as defined in § 1400Z-2(d) of the Internal Revenue Code (Code); and (2) for the Taxpayer to be treated as a QOF, effective as of the month the Taxpayer was formed, as provided under Code § 1400Z-2 and Treasury Regulation § 1.1400Z2(d)-1(a).

**FACTS**

According to the information submitted to us, Taxpayer, a partnership organized as a limited liability company under the laws of State Z, was formed as a QOF on Date 1, for the purpose of investing in qualified opportunity zone property as defined in Code § 1400Z-2(d)(2). On or around Date 2, Taxpayer's representatives met with Advisor regarding the preparation of Taxpayer's Federal income tax return for Taxpayer's first year of operation - Year 1, the year Taxpayer was formed. The information provided by Taxpayer indicates that Advisor was tasked with preparing and timely filing Taxpayer's Federal income tax return and all related forms and elections to self-certify Taxpayer as a QOF, and to treat Taxpayer as a QOF as of the month Taxpayer was formed.

According to the affidavits and additional information provided to us, Taxpayer and Advisor were aware of the requirement to file Form 8996 (Qualified Opportunity Fund) with the Taxpayer's timely filed Federal income tax return for Year 1 for the Taxpayer to self-certify QOF status and to be treated as a QOF as of the month Taxpayer was formed. Advisor was retained by Taxpayer so that Taxpayer could comply with the Form 8996 requirements and Advisor was expected to file a request for an automatic extension of time for Taxpayer's Federal income tax return for Year 1. However, according to the information submitted to us, Advisor failed to file for an automatic extension. Additionally, Advisor failed to file Taxpayer's Federal income tax return and all related forms and elections by the due date. On Date 3, Advisor informed Taxpayer's representatives that the request for automatic extension to file Year 1's return was not filed due to an administrative error by Advisor's firm.

Shortly thereafter, Taxpayer submitted this request asking for relief under Treasury Regulation §§ 301.9100-1 and 301.9100-3. Subsequently, on Date 4 – the due date that applied if a timely request for an automatic extension had been filed for Year 1 - Taxpayer filed its Federal income tax return along with Form 8996 signifying its election to self-certify and be treated as a QOF as of the month the Taxpayer was formed.

#### LAW AND ANALYSIS

Section 1400Z-2(e)(4)(A) directs the Secretary to prescribe regulations for rules for the certification of QOFs. Treasury Regulation § 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 (Qualified Opportunity Fund) with its tax return for the year to which the certification applies. The Form 8996 must be filed by the due date of the tax return (including extensions). The information provided indicates that the Taxpayer did not file its Form 8996 by the due date of its income tax return (including extensions) due to Advisor's failure to request an automatic extension or file the return. Taxpayer filed its first Federal income tax return and Form 8996 on

Date 4, the due date that would have applied if Advisor had filed a timely request for an automatic extension.

Section 1.1400Z2(d)-1(a)(2)(i) sets forth the manner and timing for electing to be a QOF and electing to self-certify as a QOF. As such, these elections are regulatory elections, as defined in section 301.9100-1(b). According to Treasury Regulation § 301.9100-3(a), requests for extensions of time for regulatory elections that do not meet the requirements of Treasury Regulation § 301.9100-2 (automatic extensions) must be made under the rules of Treasury Regulation § 301.9100-3. Additionally, requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interests of the government.

Based on the facts and information submitted and the representations made, we conclude that Taxpayer's request for extension of time to elect to be a QOF and to self-certify as a QOF is a regulatory election governed by Treasury Regulation § 301.9100-3. We further conclude that, based on the facts and information submitted in connection with this request, Taxpayer has acted reasonably and in good faith, and that the granting of relief would not prejudice the interests of the government. Accordingly, Taxpayer has satisfied the requirements of the regulations for the granting of relief, and Taxpayer's Form 8996, filed on Date 4, certifying the Taxpayer as a QOF as of the month the Taxpayer was formed is considered timely filed.

This ruling is based upon facts and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. 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 Treasury Regulation § 301.9100-3 relief as applied to the election to self-certify the Taxpayer as a QOF by filing Form 8996 for Year 1. Specifically, we have no opinion, either express or implied, concerning whether any investments made into Taxpayer are qualifying investments as defined in Treasury Regulation § 1.1400Z2 (a)-1(b)(34) or whether Taxpayer meets the requirements under section 1400Z-2 and the regulations thereunder to be a QOF. 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.

A copy of this letter must be attached to any 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.

This ruling is directed only to the taxpayer requesting it. Code § 6110(k)(3) provides that it may not be used or cited as precedent. Enclosed is a copy of the letter ruling showing the deletions proposed to be made when it is disclosed under Code § 6110.

In accordance with the Power of Attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

Sincerely,

Lisa Mojiri-Azad  
Assistant to the Branch Chief  
Branch 4  
Office of Associate Chief Counsel  
(Income Tax and Accounting)

cc: