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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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PLR-112077-20

Date:
November 17, 2020

Legend:

Taxpayer =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

Year 2 =

Software =

Dear :

This is in reply to a request for a private letter ruling, dated May 19, 2020, and supplemental correspondence, seeking an extension of time for Taxpayer to make a mixed straddle account election under section 1.1092(b)-4T(f)(1) of the Temporary Income Tax Regulations ("Election") to establish one or more mixed straddle accounts for its taxable year ending Date 1.

FACTS

Taxpayer is treated as a partnership for federal income tax purposes and is engaged in the business of trading in securities. Taxpayer represents that, through entities disregarded for federal income tax purposes, it has been entering into straddles and making timely Elections since Year 1. However, Taxpayer failed to make the Election for Year 2 by the due date of Date 2.

Taxpayer has an internal tax department that provides tax and related services to Taxpayer including the preparation and filing of federal and state tax returns for Taxpayer and affiliated entities. Taxpayer's internal tax department uses Software to track the various federal, state, local, and foreign tax filing obligations for Taxpayer and its affiliates.

Taxpayer represents that it intended to make the Election to establish one or more mixed straddle accounts for Year 2 by Date 2; however, its business has been substantially disrupted by the global COVID-19 pandemic. Three days prior to Date 2, Taxpayer implemented an immediately effective, mandatory work from home policy for all non-essential employees. Virtually all the members of the tax department immediately began working from home, which significantly disrupted the performance of their professional duties.

In addition to the disruptions caused by the COVID-19 pandemic, recent statutory changes also contributed to Taxpayer's failure to timely file the Election. Section 2006 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, Pub. L. No. 114-41, 129 Stat. 443, 457 (2015), ("Surface Act") changed the due date for filing a partnership return from the fifteenth day of the fourth month of the taxable year to the fifteenth day of the third month of the taxable year. Following the enactment of the Surface Act, Software used by Taxpayer's tax department was updated to reflect the new filing date for Form 1065 (*U.S. Return of Partnership Income*), but the corresponding due date for filing Form 6781 (*Gains and Losses From Section 1256 Contracts and Straddles*) was inadvertently not updated. For the taxable years occurring between the enactment of the Surface Act and Year 2, Taxpayer filed the Elections before the due date of its federal income tax returns, and thus did not rely on the due date that was recorded in Software. However, because of the business disruptions occurring in Year 2, the Election was not filed before the due date of Taxpayer's federal income tax return. This in turn resulted in Taxpayer missing the filing deadline for the Election because Software had not been properly updated to reflect the new, correct due date for the Election.

On Date 3, Taxpayer discovered that no Election had been filed for Year 2. Following this discovery, Taxpayer's internal tax department corrected the inaccurate due date information for making the Election in Software to prevent a similar mistake from being made in the future.

LAW AND ANALYSIS

Section 1.1092(b)-4T(a) generally permits a taxpayer to elect (in accordance with paragraph (f) of section 1.1092(b)-4T) to establish one or more "mixed straddle accounts." Section 1.1092(b)-4T(b) defines a mixed straddle account to mean an account for determining gains and losses from all positions held as capital assets in a designated class of activities by the taxpayer at the time the taxpayer elects to establish a mixed straddle account.

Section 1.1092(b)-4T(f)(1) generally provides that, except as otherwise provided, the election to establish one or more mixed straddle accounts for a taxable year must be made by the due date (without regard to any extensions) of the taxpayer's income tax return for the immediately preceding taxable year (or part thereof). Section 1.1092(b)-4T(f)(1) further provides that if a taxpayer begins trading or investing in positions in a new class of activities during a taxable year, the election with respect to the new class of activities must be made by the taxpayer by the later of the due date of the taxpayer's income tax return for the immediately preceding taxable year (without regard to any extensions), or 60 days after the first mixed straddle in the new class of activities is entered into.

Section 1.1092(b)-4T(f)(1) also provides that if an election is made after the time specified above, the election will be permitted only if the Commissioner concludes that the taxpayer had reasonable cause for failing to make a timely election. Because section 1.1092(b)-4T(f)(1) provides specific guidance about making a late mixed straddle account election, the rules generally applicable to late elections described in section 301.9100-3 do not apply to this late mixed straddle account election.

Section 1.1092(b)-4T(f)(2) sets forth the manner for making the election, including that the election is to be made on Form 6781.

CONCLUSION

Based on the facts and representations submitted, we conclude that Taxpayer has shown reasonable cause for failing to timely make the Election. Therefore, we grant Taxpayer's request for an extension of time to make the Election for one or more mixed straddle accounts for Year 2. This extension will expire 30 days from the date of this letter. The Election must be made in the manner prescribed in section 1.1092(b)-4T(f)(2) and filed with the Director having audit jurisdiction over Taxpayer's federal income tax return.

Except as specifically ruled upon above, no opinion is expressed as to the tax treatment of any transactions under the provisions of any other sections of the Internal Revenue Code ("Code") or Income Tax Regulations which may be applicable thereto, or the tax treatment of any conditions existing at the time of or effects resulting from the transaction. Specifically, no opinion is expressed concerning whether the positions

designated by Taxpayer as the class of activities is a permissible designation under section 1.1092(b)-4T(b)(2).

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.

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Andrea M. Hoffenson
Andrea M. Hoffenson
Chief, Branch 2
Office of the Associate Chief Counsel
(Financial Institutions and Products)