

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202122003**
Release Date: 6/4/2021

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 9100.02-04

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B06
PLR-119792-20

Date:
March 10, 2021

Re: Request for extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to file an election pursuant to § 59(e) of the Internal Revenue Code

LEGEND:

P: =

S: =

Year: =

Dear :

This letter responds to a letter dated August 31, 2020, submitted by P on behalf of S, requesting an extension of time pursuant to §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations to make an election under § 59(e) of the Internal Revenue Code and § 1.59-1(b)(1) of the Income Tax Regulations to deduct ratably over a 60-month period S's intangible drilling and development costs (IDC) described in § 263(c) incurred in the Year taxable year.

FACTS

P represents that the facts are as follows:

P is a holding company. P is the common parent of an affiliated group of corporations that includes S (hereinafter P and S will be collectively referred to as Taxpayer), and that files a consolidated federal income tax return on a calendar year

basis using the accrual method of accounting. Taxpayer is engaged in oil and gas exploration and production.

Due to the nature of its business, Taxpayer regularly incurs substantial IDCs with respect to its oil and gas wells. On its consolidated federal income tax return for its Year taxable year, Taxpayer capitalized and amortized a portion of its IDCs incurred during that year. Taxpayer intended to make an election under § 59(e) and § 1.59-1(b)(1) to deduct ratably over a 60-month period its IDCs described in § 263(c). Taxpayer has made representations explaining why the statement required to make the election under § 59(e) and § 1.59-1(b)(1) was not timely filed.

Taxpayer represented that, in requesting an extension of time to make a late § 59(e) election for the Year taxable year, it acted reasonably and in good faith and, further, there is no prejudice to the interests of the Government.

RULING REQUESTED

Taxpayer requests an extension of time under §§ 301.9100-1 and 301.9100-3 to make the election under § 59(e) to capitalize a specified portion of Taxpayer's IDCs incurred during its Year taxable year.

LAW AND ANALYSIS

Section 59(e)(1) allows a taxpayer to deduct ratably over a specified period any qualified expenditure to which an election under § 59(e)(1) applies. In the case of IDCs, § 59(e)(1) allows a taxpayer to deduct such costs ratably over the 60-month period beginning with the month in which such expenditure was paid or incurred.

Section 59(e)(2)(C) includes in the definition of "qualified expenditure" any amount which, but for an election under § 59(e), would have been allowable as a deduction (determined without regard to § 291) for the taxable year in which paid or incurred under § 263(c) (relating to IDCs.)

Section 59(e)(3) specifically prohibits the deduction of the qualified expenditures under any other section of the Code if this option is elected.

Section 59(e)(4)(A) allows a taxpayer to make an election under § 59(e)(1) for any portion of any qualified expenditure. Section 59(e)(4)(B) provides that an election under § 59(e) may be revoked only with the consent of the Secretary.

Section 1.59-1(b)(1) prescribes the time and manner of making the election under § 59(e). According to § 1.59-1(b)(1), an election under § 59(e) shall only be made by attaching a statement to the taxpayer's income tax return (or amended return) for the taxable year in which the amortization of the qualified expenditures subject to the § 59(e) election begins. The taxpayer must file the statement no later than the date

prescribed by law for filing the taxpayer's original income tax return (including any extensions of time) for the taxable year in which the amortization of the qualified expenditures subject to the § 59(e) election begins. Additionally, the statement must include the taxpayer's name, address, taxpayer identification number, and the type and amount of qualified expenditures identified in § 59(e)(2) that the taxpayer elects to deduct ratably over the applicable period described in § 59(e)(1).

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

Section 301.9100-1(b) provides the term "regulatory election" includes an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a).

Section 301.9100-2 allows automatic extensions of time for making certain elections. Section 301.9100-3 allows extensions of time for making elections that do not meet the requirements of § 301.9100-2.

The Commissioner will grant requests for relief under § 301.9100-3 when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government. Section 301.9100-3(a).

CONCLUSION

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 through 301.9100-3 have been satisfied. Accordingly, the Commissioner grants Taxpayer an extension of time of 120 days from the date of this letter to make the election under § 59(e) and § 1.59-1(b) to deduct ratably over a 60-month period its IDCs described in § 263(c) for its Year 1 taxable year. The § 59(e) election must comply with the manner-of-election requirements of § 1.59-1(b)(1).

In making the election, Taxpayer must attach a copy of this letter ruling to its amended consolidated federal income tax return. We have enclosed a copy for that purpose. Alternatively, if Taxpayer files its amended consolidated federal income tax return electronically, it may satisfy this requirement by attaching a statement to its amended return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination. Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code and the regulations thereunder. Specifically, we express or imply no opinion concerning whether Taxpayer satisfies the requirements of § 263(c) or § 59(e).

This letter ruling is directed only to the taxpayer who requested it. Under § 6110(k)(3), a letter ruling may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Jennifer A. Records
Senior Technician Reviewer, Branch 6
Office of the Associate Chief Counsel
Passthroughs & Special Industries

Enclosures (2):
Copy
Copy for § 6110 purposes

cc: