**Internal Revenue Service**

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B06
PLR-127075-20

Date:
April 30, 2021

Legend

P:

S1:

S2:

S3:

Tax Advisor:

Accounting Firm:

Date 1:

Date 2:

Date 3:

Date 4:

Dear :

This letter responds to a private letter ruling, submitted by P on behalf of itself and its subsidiaries S1,S2, and S3 requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the of the Procedure and Administration Regulations to make an election under § 448(d)(4)(C) of the Internal Revenue Code to treat all members of P's affiliated group as a single taxpayer for purposes of the ownership test in § 448(d)(2)(B),

effective for the taxable year Date 1. This letter ruling is being issued electronically in accordance with Rev. Proc. 2020-29, 2020-21 I.R.B. 859. A paper copy will not be mailed to P.

FACTS

P is the common parent of an affiliated group of corporations that is comprised of P and its wholly-owned subsidiaries S1, S2, and S3.

Prior to Date 1, S1 elected to be taxed as a stand-alone C corporation. At that time, S1 was 100% owned by individual medical physicians who were also employed by S1 to provide physician medical services. S1 believed it met the requirements to be treated as a qualified personal service corporation for purposes of § 448(d)(2) and filed its returns as a qualified personal service corporation using the overall cash method of accounting.

During Date 1, the management of S1 modified its entity ownership structure to include additional entities. The following three new entities were formed: (1) P, which elected to be taxed as a C corporation, was formed by the contribution of 100% of the shares of S1 stock to P; (2) S2, which elected to be taxed as a C corporation and was intended to be operated as a medical services provider entity; and (3) S3 which elected to be taxed as a C corporation and was intended to be operated as a medical services provider entity. After the restructuring, P owned S1, S2, and S3.

As a result of the restructuring, substantially all of the activities performed by each of S1, S2, and S3 involved the performance of services in healthcare. Additionally, 100% of P's stock was held directly (or indirectly) by employees performing services in healthcare for S1, S2, and S3.

P informed Tax Advisor that it intended to continue to be treated as a qualified personal service corporation for Federal tax purposes after the restructuring in order to continue to use the cash method of accounting. P relied on Tax Advisor to provide advice regarding the preparation and filing of the Federal income returns, including any statements that were required to be attached to the return to reflect P's intent to continue to be treated as a qualified personal service corporation and be eligible to continue to use the overall cash method of accounting.

For the Date 1 tax year, Tax Advisor prepared separate Forms 1120, U.S. Corporation Income Tax Return, for P, S1, S2 and S3. The Forms 1120 reflected that each of the entities were qualified personal service corporations using the overall cash method of accounting.

For the Date 2 tax years, Tax Advisor prepared a consolidated Form 1120 for P, S1, S2, and S3 reflecting which reflected that the entities were qualified personal service corporations using the overall cash method of accounting.

During Date 4, prior to Tax Advisor filing a consolidated Form 1120 for Date 3 tax year, Tax Advisor informed P that the Tax Advisor failed to attach an election statement on

the Date 1 tax return. Upon realizing the error, P engaged Accounting Firm to request relief to make a late election.

The taxable year in which the election should have been made is closed by the period of limitations on assessment under § 6501(a). P represents that the granting of relief will not result in P having a lower Federal income tax liability in the aggregate than it would have had if the election had been properly made. P consistently filed its Federal income tax returns as if the requirements had been met.

## RULING REQUESTED

P requests an extension of time pursuant to § 301.9100-3 to make an election under § 448(d)(4)(C) to treat all members of its affiliated group as a single taxpayer for purposes of the ownership test in § 448(d)(2)(B).

## LAW AND ANAYLSIS

Section 448(a)(1) generally provides that, in the case of a C corporation, taxable income shall not be computed under the cash method of accounting. Section 448(b) provides exceptions to the limitation on the use of the cash method of accounting by a C corporation. For instance, § 448(b)(2) provides that § 448(a)(1) shall not apply to qualified personal service corporations.

Section 448(d)(2) defines the term "qualified personal service corporation" to mean any corporation (A) substantially all the activities of which involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting, and (B) substantially all the stock of which (by value) meets certain employee-ownership requirements.

Section 1.448-1T(e)(3) of the Income Tax Regulations provides that the term "qualified personal service corporation" means any corporation that meets the function test of § 1.448-1T(e)(4), and the ownership test of § 1.448-1T(e)(5).

Section 1.448-1T(e)(4)(i) provides that a corporation meets the function test if substantially all the corporation's activities for a taxable year involve the performance of services in health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting. Substantially all of the activities of a corporation are involved in the performance of services in a qualifying field only if 95% or more of the time spent by employees of the corporation, serving in their capacity as such, is devoted to the performance of services in a qualifying field.

Section 1.448-1T(e)(5)(i) provides that a corporation meets the ownership test if at all times during the taxable year, substantially all the corporation's stock, by value, is held, directly or indirectly, by (A) employees performing services for such corporation in connection with activities involving a field described in § 1.448-1T(e)(4); (B) retired employees who had performed such services for such corporation; (C) the estate of any individual described in § 1.448-1T(e)(5)(i)(A) or (B); or (D) any other person who acquired such stock by reason of the death of an individual described in § 1.448-1T(e)(5)(i)(A) or (B), but only for the 2-year period beginning on the date of the death of

such individual. For purposes of the ownership test, “substantially all” means an amount equal to or greater than 95%.

Section 448(d)(4)(C) provides that at the election of the common parent of an affiliated group (within the meaning of § 1504(a)), all members of such group may be treated as 1 taxpayer for purposes of § 448(d)(2)(B) if 90% or more of the activities of such group involve the performance of services in the same field described in § 448(d)(2)(A).

Section 301.9100-7T(a)(2)(i)(A) provides, in relevant part, that the election under § 448(d)(4)(C) must be made by the due date (taking extensions into account) of the tax return for the first taxable year for which the election is to be effective.

Section 301.9100-7T(a)(3) provides that the election under § 448(d)(4)(C) shall be made by attaching a statement to the tax return for the taxable year for which the election is to be effective. The statement shall (A) contain the name, address and taxpayer identification number of the electing taxpayer, (B) identify the election, (C) indicate the section of the Code under which the election is made, (D) specify, as applicable, the period for which the election is being made and/or the property or other items to which the election is to apply, and (E) provide any information required by the relevant statutory provisions and any information necessary to show that the taxpayer is entitled to make the election.

Under section 301.9100-1, the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election.

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 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.

Section 301.9100-3(a) provides that requests 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 the grant of relief will not prejudice the interests of the government.

## CONCLUSION

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, P is granted 60 calendar days from the date of this letter to make the election under § 448(d)(4)(C) to treat all members of its affiliated group, S1, S2 and S3, as a single taxpayer for purposes of the ownership test in § 448(d)(2)(B), effective for the taxable year ended Date1. This election must be made by P filing an amended Federal income tax return for the taxable year ended Date 1, with the written election statement required by § 301.9100-7T(a)(3). P should attach a copy of this letter to the amended Federal income tax return.

Except as specifically set forth above, we express no opinion concerning the Federal tax consequences of the facts described above under any other provisions of the Code (including other subsections of § 448). Specifically, no opinion is expressed or implied as to whether P, S1, S2, or S3 are qualified personal service corporations under § 448(d)(2) and the regulations thereunder, or whether P, S1, S2, or S3 qualify to make the election under § 448(d)(4)(C). Moreover, no opinion is expressed or implied as to whether P, S1, S2, or S3 are prohibited from using the cash method of accounting under § 448 or any other section of the Code or regulations.

The ruling contained in this letter is based upon information and representations submitted by P and accompanied by a penalty of perjury statement executed by an appropriate party.

This letter ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to each of P's authorized representative.

Sincerely,

Christina A. Morrison
Senior Technician Reviewer, Branch 6
Office of Associate Chief Counsel
(Income Tax & Accounting)

cc: