

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:03

PLR-119282-21

Date:

March 14, 2022

Legend

A =

Year =

Dear _____ :

This letter responds to a letter dated September 13, 2021, and subsequent correspondence, submitted on behalf of A by his authorized representative requesting a ruling under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 469(c)(7) of the Internal Revenue Code (Code) to treat all interests in rental real estate as a single rental real estate activity.

Facts

According to the information submitted, in the Year taxable year A was engaged in a real property business as defined under § 469(c)(7)(C) and was qualified under § 469(c)(7)(B) to make an election to treat all interests in rental real estate as a single rental real estate activity. However, A represents that his former tax return preparer did not advise A about the election under § 469(c)(7). As a result, A filed his Year Federal income tax return without the required statement under § 1.469-9(g)(3) of the Income Tax Regulations to make an election under § 469(c)(7).

Law and Analysis

Under § 469(c)(2), the term “passive activity” generally includes any rental activity. Section 469(c)(7) provides a limited exception to this rule for taxpayers in a real

property trade or business. Specifically, § 469(c)(7)(A) provides that if a taxpayer meets the requirements of § 469(c)(7)(B), the taxpayer's rental real estate activity will no longer be presumptively passive. By its terms, the exception under § 469(c)(7)(A) is to be applied as if each interest of the taxpayer in rental real estate were a separate activity. However, under § 469(c)(7)(A) a taxpayer may elect to treat all interests in rental real estate as a single activity.

Section § 1.469-9(g)(3) provides that a qualifying taxpayer makes the election to treat all interests in rental real estate as a single rental real estate activity by filing a statement with the taxpayer's original income tax return for the taxable year. Section 1.469-9(g)(3) describes the information that must be contained in the statement.

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 6 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) defines the term "regulatory election" as including 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 an election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory 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 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.

Conclusion

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, A is granted an extension of time of 120 days from the date of this letter to make an election under § 469(c)(7)(A) to treat all of his interests in rental real estate as a single rental real estate activity for the Year taxable year. The election must be in the form of the statement required by § 1.469-9(g)(3) and attached to an amended return for Year. A copy of this letter should be attached to the election.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we express or imply no opinion concerning whether A satisfies

the requirements under § 469(c)(7)(B) or whether A materially participates in any activity.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

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

In accordance with a 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 & Special Industries)

/S/

By: _____
Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure:
Copy of letter for § 6110 purposes

cc: