

Internal Revenue Service

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August 08, 2024

Legend:

Taxpayer =

Taxpayer's Spouse =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Year 6 =

Month 1 =

Accounting Firm 1 =

Accounting Firm 2 =

Law Firm =

Dear _____ :

This is in reply to a letter dated April 2, 2024, and supplemental correspondence, submitted on behalf of Taxpayer and Taxpayer's Spouse (together, the "Taxpayers"). Taxpayers request an extension of time to file an election pursuant to section 1092(b) of the Internal Revenue Code (the "Code") and section 1.1092(b)-4T(f) of the Temporary Income Tax Regulations (a "mixed straddle account election").

FACTS

Taxpayer is an individual who files federal income tax returns jointly with Taxpayer's Spouse.

Beginning in Year 1, Taxpayer entered into a series of transactions for Taxpayer's personal benefit whereby Taxpayer purchased and sold exchange-traded options while simultaneously holding offsetting positions (the "Trading Activity"). Taxpayer's Trading Activity specifically focuses on straddle positions and section 1256 contracts. In Year 2 and Year 3, the volume of Taxpayer's Trading Activity, particularly Taxpayer's straddle positions, increased significantly. Taxpayer has continued to engage in the Trading Activity through Year 6.

Taxpayer engaged Accounting Firm 1 for tax consulting and tax return preparation services. Accounting Firm 1 identified itself as having expertise in individual income tax return preparation and taxation and had assisted Taxpayer in the past with the federal income tax nuances regarding Taxpayer's tax planning. Taxpayer had no previous experience with mixed straddle account elections and relied on Accounting Firm 1's expertise and advice. Accounting Firm 1 was aware of Taxpayer's Trading Activity and never advised Taxpayer on the ability to make mixed straddle account elections under section 1.1092(b)-4T(f) or the procedures to do so.

In Year 3, Taxpayer was informed that Accounting Firm 1 would be sold. Taxpayer represents that while Taxpayer immediately began searching for a new accounting firm, due to the COVID-19 pandemic, Taxpayer was unable to establish a new business relationship with an accounting firm.

In Month 1, Taxpayer engaged Accounting Firm 2 for tax return preparation and accounting services. While conducting due diligence, Accounting Firm 2 uncovered that Accounting Firm 1 had failed to inform Taxpayer of the availability of the mixed straddle account election and had failed to make the mixed straddle account elections for Year 2, Year 3, Year 4. Accounting Firm 2 also informed the Taxpayer that while the deadline had passed to make the mixed straddle account elections for those years, late election relief may be available if Taxpayer could establish reasonable cause for failing to make the timely elections. Subsequently, Taxpayer engaged Law Firm to assist Accounting Firm 2 to request this extension of time to file the late mixed straddle account elections under section 1.1092(b)-4T(f) for Year 2, Year 3, Year 4, and Year 5. Taxpayer represents that Taxpayers filed a mixed straddle account election on the Form 6781, *Gains and Losses From Section 1256 Contracts and Straddles* for Year 6, with their Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return* for Year 5.

Consequently, Taxpayers request an extension of time to file mixed straddle account elections under section 1.1092(b)-4T(f) for Year 2, Year 3, Year 4, and Year 5.

LAW AND ANALYSIS

Section 1.1092(b)-4T(a) generally permits a taxpayer to elect (in accordance with section 1.1092(b)-4T(f)) 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 taxpayer must make the election with respect to the new class of activities 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. As 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 these late mixed straddle account elections.

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 Taxpayers have shown reasonable cause for failing to make timely mixed straddle account elections under section 1.1092(b)-4T(f) for Year 2, Year 3, Year 4, and Year 5. Therefore, we grant Taxpayers' request for an extension of time to make these mixed straddle account elections under section 1.1092(b)-4T(f)(1) for Year 2, Year 3, Year 4, and Year 5. This extension will expire 30 days from the date of this letter. The mixed straddle account elections must be made in the manner prescribed in section 1.1092(b)-4T(f)(2) and filed with the director having audit jurisdiction over Taxpayers' U.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 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 Trading Activity. Specifically, no opinion is expressed concerning whether the positions designated by Taxpayers 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, a copy of this letter is being sent to your authorized representative.

Sincerely,

Vanessa Mekpong
Assistant to the Branch Chief, Branch 1
Office of Associate Chief Counsel
(Financial Institutions & Products)

cc: