Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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Date:
April 04, 2000

LEGEND

Taxpayer   =

Corporation =

Bank   =

Dear :

      This is in reply to a letter dated November 1, 1999, requesting that Taxpayer be granted an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to complete its compliance with the requirements of Rev. Proc. 98-60, 1998-2 C.B. 759. Rev. Proc. 98-60 (the predecessor of Rev. Proc. 99-49, 1999-52 I.R.B. 725) provides an exclusive, automatic procedure for certain banks to follow in changing from the § 585 reserve method of accounting for bad debts to the § 166 specific charge-off method for the 1998 tax year.

      Taxpayer, a financial holding company and a calendar year taxpayer, elected S corporation status by timely filing Form 2553 (Election by a Small Business Corporation) effective for its 1998 tax year. Taxpayer owns 100 percent of the outstanding stock of Corporation, a financial holding company. Corporation owns 100 percent of the outstanding stock of Bank, a financial institution with a national bank charter. Taxpayer elected to treat Corporation and Bank as qualified subchapter S subsidiaries effective for the 1998 tax year. As a qualified subchapter S subsidiary, Bank was required to change from the § 585 reserve method of accounting for bad debts to the § 166 specific charge-off method of accounting for the 1998 tax year, and Rev. Proc. 98-60 applied to this change.

      In changing from the § 585 reserve method to the § 166 specific charge-off method, Bank complied only partially with the requirements of Rev. Proc. 98-60. Its failure to comply completely with these requirements was due to an inadvertent error of the independent accounting firm that prepared Taxpayer's 1998 S corporation federal income tax return. Taxpayer has requested an extension of time under § 301.9100-3 to complete the compliance with Rev. Proc. 98-60.

Section 301.9100-1(c) of the regulations provides, in part, that the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election (defined in section 301.9100-1(b) as an election whose due date is prescribed by regulations or by a revenue ruling, a revenue procedure, a notice, or an announcement published in the Internal Revenue Bulletin), 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 Internal Revenue Code except subtitles E, G, H, and I.

Section 301.9100-3(a) through (c)(1)(i) of the regulations sets forth rules that the Internal Revenue Service generally will use to determine whether, under the facts and circumstances of each situation, the Commissioner will grant an extension of time for regulatory elections that do not meet the requirements of section 301.9100-2. Section 301.9100-3(b) provides that subject to paragraphs (b)(3)(i) through (iii) of section 301.9100-3, when a taxpayer applies for relief under this section before the failure to make the regulatory election is discovered by the Service, the taxpayer will be deemed to have acted reasonably and in good faith; and section 301.9100-3(c) provides that the interests of the government are prejudiced if granting relief would result in the taxpayer having a lower tax liability in the aggregate for all years to which the regulatory election applies than the taxpayer would have had if the election had been timely made (taking into account the time value of money).

Section 301.9100-3(c)(2) provides special rules for accounting method regulatory elections. This section provides, in relevant part, that the interests of the government are deemed to be prejudiced by granting an extension of time, except in unusual and compelling circumstances, if the accounting method regulatory election is subject to the procedure described in § 1.446-1(e)(3)(i) (requiring the advance written consent of the Commissioner) or if the accounting method regulatory election for which relief is requested requires an adjustment under § 481(a).

Based on the information provided and the representations made, it is held that Taxpayer is deemed to have acted reasonably and in good faith, and that granting an extension of time to allow Taxpayer to complete the compliance with Rev. Proc. 98-60 would not prejudice the interests of the government under the provisions of § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 60 days after the date of this letter to complete the compliance with Rev. Proc. 98-60.

No opinion is expressed as to the tax treatment of the transaction under the provisions of any other sections of the Code and regulations, which may be applicable thereto, or the tax treatment of any conditions existing at the time of or effects resulting from the transaction, which are not specifically set forth by the above ruling.

Further, no opinion is expressed as to whether Taxpayer's tax liability is not lower in the aggregate for all years to which the regulatory election applies than

Taxpayer's tax liability would have been if the election had been timely made (taking into account the time value of money). Upon an audit of the federal income tax returns involved, the district director's office will determine Taxpayer's tax liability for the years involved. If the district director's office determines Taxpayer's liability is lower, that office will determine the federal income tax effect.

A copy of this letter will be forwarded to the district director.

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 the Power of Attorney on file with this office, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely yours,
Lon B. Smith
Assistant Chief Counsel
(Financial Institutions & Products)

Enclosures:
    Copy of this letter
    Section 6110 copy