§ 301.9100-2 Automatic extensions

(a) ***Automatic 12-month extension***—(1) *In general.* An automatic extension of 12 months from the due date for making a regulatory election is granted to make elections described in paragraph (a)(2) of this section provided the taxpayer takes corrective action as defined in paragraph (c) of this section within that 12-month extension period. For purposes of this paragraph (a), the due date for making a regulatory election is the extended due date of the return if the due date of the election is the due date of the return or the due date of the return including extensions and the taxpayer has obtained an extension of time to file the return. This extension is available regardless of whether the taxpayer timely filed its return for the year the election should have been made.

(2) ***Elections eligible for automatic 12-month extension.*** The following regulatory elections are eligible for the automatic 12-month extension described in paragraph (a)(1) of this section—

(i) The election to use other than the required taxable year under section 444;

(ii) The election to use the last-in, first-out (LIFO) inventory method under section 472;

(iii) The 15-month rule for filing an exemption application for a section 501(c)(9), 501(c)(17), or 501(c)(20) organization under section 505;

(iv) The 15-month rule for filing an exemption application for a section 501(c)(3) organization under section 508;

(v) The election to be treated as a homeowners association under section 528;

(vi) The election to adjust basis on partnership transfers and distributions under section 754;

(vii) The estate tax election to specially value qualified real property (where the Internal Revenue Service (IRS) has not yet begun an examination of the filed return) under section 2032A(d)(1); **(viii)** The chapter 14 gift tax election to treat a qualified payment right as other than a qualified payment under section 2701(c)(3)(C)(i); and

(ix) The chapter 14 gift tax election to treat any distribution right as a qualified payment under section 2701(c)(3)(C)(ii).

(b) ***Automatic 6-month extension.*** An automatic extension of 6 months from the due date of a return excluding extensions is granted to make regulatory or statutory elections whose due dates are the due date of the return or the due date of the return including extensions provided the taxpayer timely filed its return for the year the election should have been made and the taxpayer takes corrective action as defined in paragraph (c)

of this section within that 6-month extension period. This paragraph (b) does not apply to regulatory or statutory elections that must be made by the due date of the return excluding extensions.

(c) ***Corrective action.*** For purposes of this section, corrective action means taking the steps required to file the election in accordance with the statute or the regulation published in the FEDERAL REGISTER, or the revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin (see § 601.601(d)(2) of this chapter). For those elections required to be filed with a return, corrective action includes filing an original or an amended return for the year the regulatory or statutory election should have been made and attaching the appropriate form or statement for making the election. Taxpayers who make an election under an automatic extension (and all taxpayers whose tax liability would be affected by the election) must file their return in a manner that is consistent with the election and comply with all other requirements for making the election for the year the election should have been made and for all affected years; otherwise, the IRS may invalidate the election.

(d) ***Procedural requirements.*** Any return, statement of election, or other form of filing that must be made to obtain an automatic extension must provide the following statement at the top of the document: “FILED PURSUANT TO § 301.9100-2”. Any filing made to obtain an automatic extension must be sent to the same address that the filing to make the election would have been sent had the filing been timely made. No request for a letter ruling is required to obtain an automatic extension. Accordingly, user fees do not apply to taxpayers taking corrective action to obtain an automatic extension.

(e) Examples. The following examples illustrate the provisions of this section:

EXAMPLE 1. AUTOMATIC 12-MONTH EXTENSION.

Taxpayer A fails to make an election described in paragraph (a)(2) of this section when filing A's 1997 income tax return on March 16, 1998, the due date of the return. This election does not affect the tax liability of any other taxpayer. The applicable regulation requires that the election be made by attaching the appropriate form to a timely filed return including extensions. In accordance with paragraphs (a) and (c) of this section, A may make the regulatory election by taking the corrective action of filing an amended return with the appropriate form by March 15, 1999 (12 months from the March 16, 1998 due date of the return). If A obtained a 6-month extension to file its 1997 income tax return, A may make the regulatory election by taking the corrective action of filing an amended return with the appropriate

form by September 15, 1999 (12 months from the September 15, 1998 extended due date of the return).

EXAMPLE 2. AUTOMATIC 6-MONTH EXTENSION.

Taxpayer B fails to make an election not described in paragraph (a)(2) of this section when filing B's 1997 income tax return on March 16, 1998, the due date of the return. This election does not affect the tax liability of any other taxpayer. The applicable regulation requires that the election be made by attaching the appropriate form to a timely filed return including extensions. In accordance with paragraphs (b) and (c) of this section, B may make the regulatory election by taking the corrective action of filing an amended return with the appropriate form by September 15, 1998 (6 months from the March 16, 1998 due date of the return).

(f) ***Automatic 6-month extension for certain generation-skipping transfer tax allocations and elections***—(1) *Availability.* Paragraph (b) of this section is not available to obtain an automatic 6-month extension to allocate generation-skipping transfer (GST) exemption to a transfer pursuant to section 2632 or to make an election under section 2632(b)(3) or (c)(5). An automatic 6-month extension to allocate GST exemption under section 2632 or to make an election under section 2632(b)(3) or (c)(5) is available to transferors or the executors of transferors' estates pursuant to § 26.2642-7(i)(1) of this chapter if the requirements of that provision are satisfied.

(2) ***Applicability date.*** Paragraph (f) of this section applies to any gift or estate tax return or Form 8939, *Allocation of Increase in Basis for Property Acquired from a Decedent,* for which the date prescribed for filing is on or after May 6, 2024 (excluding extensions), regardless of the date of the transfer.

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