

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

In re:

Refer Reply To:
CC:INTL:PLR-114924-00
Date:
December 11, 2000

LEGEND

Taxpayer =
Individual A =
Individual B =
CPA Firm =
Date A =
Country Y =

Dear :

This replies to a letter dated August 1, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 8279, Election To Be Treated as a FSC or as a Small FSC, pursuant to Temp. Treas. Reg. § 1.921-1T(b)(1), Q&A 1, for the tax year beginning on Date A. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Individual A is the tax manager for the parent corporation of Taxpayer, a foreign sales corporation, and is responsible for all tax issues involving the parent corporation and its subsidiaries. Individual A was planning to make an estimated tax payment for Taxpayer when she called Individual B at CPA Firm to clarify a point on foreign sales corporations in Country Y, where Taxpayer was incorporated with the assistance of CPA's local office there. The conversation led to the discovery that Form 8279 had not been filed on behalf of Taxpayer. The failure to file Form 8279 was due to a misunderstanding between Individual A and CPA Firm as to which one had the responsibility for timely filing Form 8279. Taxpayer is not aware of any knowledge on the part of the IRS of the failure to make the election.

Treas. Reg. § 301.9100 -1(b) defines a regulatory election as an election whose due

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date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time under the rules set forth in § 301.9100-3. to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3 provides rules for extensions of time for making regulatory elections.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section 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.

In the present situation, §1.921-1T(b)(1), Q&A 1, fixes the time to elect treatment as an FSC or small FSC. Thus, the Commissioner has discretionary authority pursuant to § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file Form 8279 for the tax year beginning on Date A. The granting of an extension of time to file Form 8279 is not a determination that Taxpayer is otherwise eligible to file Form 8279. § 301.9100-1(a).

This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to Taxpayer.

Sincerely,
Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)