

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-168328-03

Date:
June 03, 2005

In Re:

LEGEND

Taxpayer =

Individual =

A

Individual =

B

CPA Firm =

Dear :

This replies to a letter dated November 20, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement described in §1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted in letters dated November 2, 2004, and May 18, 2005. 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 Taxpayer's vice president of worldwide taxation, and is responsible for all of Taxpayer's tax matters. These matters include filing tax returns and all tax planning. Individual B is a partner with CPA Firm, and coordinates the tax services that CPA Firm provides to Taxpayer. These services include tax return preparation and review, and tax consulting.

The affidavits of Individuals A and B and the facts submitted describe the circumstances that led to the discovery that elections and agreements, and annual certifications were not filed for the entities and tax years listed on Schedule A. The affidavits and facts also give the reasons for this failure. Taxpayer believes that it acted reasonably and in good faith because it relied on its in-house tax advisor, and the tax professionals at CPA Firm. In addition, Taxpayer believes that it acted reasonably and in good faith because it is requesting relief before the IRS discovered this failure.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and defines a regulatory election as an election whose due 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(a) provides that requests for relief subject to this section will be granted when the taxpayer provides 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, the election and agreement described in § 1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief as set forth in § 301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 45 days from the date of this ruling letter to file the election and agreement described in §1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and the annual certifications. § 301.9100-1(a).

A copy of this ruling letter should be associated with the elections and agreements, and the annual certifications.

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 ruling letter is being furnished to Taxpayer.

Sincerely,

Associate Chief Counsel (International)

Allen Goldstein
Reviewer

Enclosures:
Schedule A
Copy for 6110 purposes

LEGEND

A = A ruling is requested to file the election and agreement described in §1.1503-2(g)(2)(i).

B = A ruling is requested to file the annual certification described in § 1.1503-2(g)(2)(vi)(B).

SCHEDULE A

Cc:

Cc: