

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-169504-03

Date:
August 03, 2005

In Re:

LEGEND

- Taxpayer =
- Individual A =
- Individual B =
- Entity A =
- Entity B =
- CPA Firm =
- Foreign =
- Country =
- Year X =
- Year Y =

Dear :

This replies to your letter dated November 25, 2003, in which you request on behalf of Taxpayer an extension of time under Treas. Reg. § 301.9100-3 for Taxpayer 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 a letter dated March 21, 2005, and in an electronic transmission on July 15, 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.

Taxpayer relied on CPA Firm to review the tax returns for the tax years listed on Schedule A. Individual A and Individual B are tax professionals with CPA Firm. Their

affidavits indicate that they inadvertently failed to advise Taxpayer to file the election and agreement, and the annual certifications listed on Schedule A as required by Treas. Reg. § 1.1503-2(g)(2).

Taxpayer represents that the income tax laws of Foreign Country do not deny the use of losses, expenses, or deductions of Entity B to offset income of another person because the separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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 Treas. Reg. § 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 Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 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 election and agreement, and the annual certifications. Treas. Reg. § 301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file election agreements pursuant to § 1.1503-2(c)(15)(iv).

Taxpayer states that the tax return for Year X was timely filed, and that an annual certification was attached to that tax return. The annual certification was with respect to the dual consolidated loss incurred by Entity A in tax year Y. Because the tax return for Year X was filed before the submission of this ruling request, Taxpayer requests relief to file the annual certification that was included with the Year X tax return. Since the annual certification for Year X was timely filed, Treas. Reg. § 301.9100-1 does not apply in this situation as § 9100 relief applies to a late election. As noted above, an election is defined to include an annual certification.

A copy of this ruling letter should be associated with the election and agreement, 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 and the other authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Meryl Silver

Meryl Silver
Reviewer

Enclosures (2):
Schedule A
Copy for 6110 purposes

