

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-112772-02

Date:

April 28, 2003

In re:

LEGEND

Taxpayer =

Entity =

Dates 1, 2, and 3 =

Individuals A and B =

CPA Firm =

Dear :

This replies to a letter dated February 18, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file an election and agreement as provided under § 1.1503-2(g)(2)(i) for the tax years of Entity ended on dates 1 and 2; and to file an annual certification as provided in § 1.1503-2(g)(2)(vi)(B) for the tax year of Entity ended on date 3 with respect to the losses incurred by Entity in each of its tax years ended on dates 1 and 2. Additional information was submitted in letters dated December 16, 2002, and March 21, 2003. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations

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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 chief financial officer of Taxpayer and Individual B is a partner with CPA Firm. The penalties of perjury statement of each and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer's failure to file the elections and the annual certification. Taxpayer is requesting relief before the IRS has discovered Taxpayer's failure to timely file the elections and the annual certification.

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 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, the election and agreement and the annual certification 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 rules set forth in § 301.9100-3(a).

Based on the facts and information submitted, 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 an election and agreement as provided under § 1.1503-2(g)(2)(i) for the tax years of Entity ended on dates 1 and 2; and to file the annual certification as provided in § 1.1503-2(g)(2)(vi)(B) for the tax year of Entity ended on date 3 with respect to the losses incurred by Entity in each of its tax years ended on dates 1 and 2.

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

A copy of this ruling letter should be associated with the elections and the annual certification.

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/s Allen Goldstein
Allen Goldstein
Reviewer

Enclosure:

Copy for § 6110 purposes