

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-128477-00
Date:

In re:

October 4, 2001

LEGEND

- Taxpayer =
- Date A =
- Year One =
- Trust Company =

Dear

This replies to your letter dated November 17, 2000, in which Taxpayer requests the following extensions of time under Treas. Reg. § 301.9100-3: (i) to file a statement under § 1.927(f)-1(b) to revoke its election to be treated as a small FSC; and (ii) 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. The filing of the statement of revocation and the Form 8279 are each effective for the tax year ended on Date A. Additional information was submitted in letters dated May 31, and August 9, 2001. 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.

Since Year One, Taxpayer had in effect a small FSC election. The parent of Taxpayer engaged Trust Company to create a regular FSC, and Taxpayer obtained a new federal tax identification number.

Taxpayer filed Form 1120-FSC for the tax period ended on Date A. Later, Taxpayer received a notice from the Philadelphia Service Center stating that Form 1120-FSC could not be processed as there was no record of Form 8279 having been filed by Taxpayer. Taxpayer then conducted a review of the matter. The review disclosed a misunderstanding between Taxpayer and Trust Company as each believed that the

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other party had the responsibility for filing Form 8279 and the statement of revocation. Accordingly, neither party filed Form 8279 and the statement of revocation.

Treas. Reg. § 301.9100 -1(b) 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, §1.921-1T(b)(1), Q&A 1, fixes the time to elect treatment as an FSC or small FSC, and § 1.927(f)-1(b) fixes the time to revoke an election to be treated as a FSC or a 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 extensions of time until 30 days from the date of this ruling letter (i) to file a statement under § 1.927(f)-1(b) to revoke its election to be treated as a small FSC, and (ii) 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. The filing of the revocation statement and the Form 8279 are each effective for the tax year ended on Date A.

The granting of extensions of time is not a determination that Taxpayer is otherwise eligible to file the statement of revocation and Form 8279. § 301.9100-1(a). One of the requirements is that a FSC (other than a small FSC) must under § 924(b)(1) satisfy the foreign management and foreign economic process tests. This includes maintaining a principal bank account in a foreign country which meets the requirements of § 927(e)(3) or in a possession of the United States at all times during the taxable year.

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.

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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 sent to Taxpayer.

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