

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200336025**

Release Date: 9/5/2003

Index Number: 9100.22-00, 1503.04-04

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: INTL:PLR-125790-03

Date:

June 06, 2003

In re:

LEGEND

Taxpayer =

Branch 1 =

Dates 1 and 2 =

Individuals A and B =

CPA Firm =

Dear :

This replies to a letter dated April 11, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to attach to its U.S. income tax return for the tax year ended on Date 2 the documentation required under § 1.1503-2(g)(2)(iii)(B) to rebut the presumption that the transaction on Date 1 was a triggering event within the meaning of § 1.1503-2(g)(2)(iii)(A)(5). 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.

In re: PLR-125790-03

On Date 1, Branch 1 was sold for cash. Taxpayer states that it should have attached documentation as required under § 1.1503-2(g)(2)(iii)(B) to its tax return for the tax year ended on Date 2 regarding the sale of Branch 1

Individual A is a senior director of accounting and finance with Taxpayer. Individual B is a partner with CPA Firm and is responsible for the tax return preparation services for Taxpayer. The affidavits of Individuals A and B and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer's failure to attach the documentation required by § 1.1503-2(g)(2)(iii)(B) to its tax return for the tax year ended on Date 2. In addition, the affidavits and facts state that CPA Firm and Individual A omitted the documentation due to an inadvertent oversight on their part.

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 documentation required by § 1.1503-2(g)(2)(iii)(B) is a regulatory election 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 attach to its U.S. income tax return for the tax year ended on Date 2 the documentation required under § 1.1503-2(g)(2)(iii)(B) to rebut the presumption that the transaction on Date 1 was a triggering event within the meaning of § 1.1503-2(g)(2)(iii)(A)(5).

In re: PLR-125790-03

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to attach the documentation to its tax return for the tax year ended on Date 2. § 301.9100-1(a). Specifically, this ruling is not a determination as to whether Taxpayer has rebutted the presumption that the transaction on Date 1 was a triggering event within the meaning of § 1.1503-2(g)(2)(iii)(A). This determination will be made by the office of the industry director having examination jurisdiction over the tax return for the tax year at issue.

A copy of this ruling letter should be associated with the documentation.

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/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure:
Copy for 6110 purposes