

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:INTL – PLR-123880-03

Date:

May 26, 2004

LEGEND

Taxpayer =

Dates 1, 2, 3, 4 =

Individual A =

Individual B =

CPA Firm One =

CPA Firm Two =

Dear :

This replies to a letter dated April 7, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election 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 on April 15, 2003. 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.

During the tax years at issue, Individual A held the position of executive director of taxes for Taxpayer, and had primary responsibility for Taxpayer's international tax matters. Individual B is a partner with CPA Firm One, which prepared the tax return of Taxpayer

In re: PLR-123880-03

for the short period ended on Date 4. CPA Firm One replaced CPA Firm Two, which provided tax advisory services to Taxpayer with respect to its tax returns that were filed for the tax years ended on Dates 1 through 3. The affidavits of Individuals A and B and the facts submitted set forth the reasons Taxpayer is requesting relief to file the election agreements and the annual certifications. In addition, Individual A's affidavit states that Taxpayer relied on CPA Firms One and Two at all times to identify and properly address issues relating to the filing of Taxpayer's federal income tax returns, including filing appropriate election statements and annual certifications.

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 agreements, and the annual certifications 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 45 days from the date of this letter to file the election 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 agreements, and the annual certifications. § 301.9100-1(a).

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

In re: PLR-123880-03

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 your authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosures:

Schedule A

Copy for § 6110 purposes

SCHEDULE A
