

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200441006**

Release Date: 10/8/04

Index Number: 9100.22-00, 1503.04-04

Person To Contact:

Telephone Number:

Refer Reply To:

CC:INTL – PLR-109404-03

Date:

June 22, 2004

In re:

LEGEND

Taxpayer =

Entity 1 =

Entity 2 =

Taxpayer's Tax Director =

CPA Firm =

Date A =

Date B =

Date C =

Date D =

Dear :

This replies to a letter dated Date A, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file an election and agreement described in Treas. Reg. § 1.1503-2(g)(2) (the "2(g)(2)(i) agreement"). The election for Entity 1 is for the tax year ended on Date C, and the election for Entity 2 is for the tax years ended on Dates B and C. The information submitted for consideration is substantially as set forth below.

In re: PLR-109404-03

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 employs CPA Firm to assist with its tax compliance. CPA Firm has represented that due to turnover of personnel in both Taxpayer and CPA Firm's offices, and the complex and voluminous nature of Taxpayer's return, CPA Firm and Taxpayer inadvertently failed to submit the 2(g)(2)(i) agreement for Entities 1 and 2 for years ending Dates B and C. Approximately one week after filing for Date C, Taxpayer's Tax Director attended a seminar at which the topic of dual consolidated losses and the election under Treas. Reg. § 1.1503-2(g)(2) were discussed. Consequently, the Tax Director realized the required elections had not been made.

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 Treas. Reg. § 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 Treas. Reg. § 301.9100-3(e)) that establishes 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 agreement described in Treas. Reg. § 1.1503-2(g)(2)(i) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts submitted and representations made, we grant Taxpayer an extension of time under Treas. Reg. § 301.9100-3(a) to submit its 2(g)(2)(i) agreements for Entity 1 for the tax year ended on Date C and for Entity 2 for the tax years ended on Dates B and C. Accordingly, Taxpayer is granted an extension of time of 45 days from

In re: PLR-109404-03

the date of this ruling to file an agreement described in Treas. Reg. § 1.1503-2(g)(2)(i) for tax years ending Dates B and C.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the 2(g)(2)(i) agreements. Treas. Reg. § 301.9100-1(a).

A copy of this letter ruling should be attached to the 2(g)(2)(i) agreements.

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. Specifically, no opinion is expressed with respect to the fact that the annual certification as described in Treas. Reg. § 1.1503-2(g)(2)(vi)(B) was not filed with the tax return for the tax year ended on Date C, and with the tax return for the year ended on Date D with respect to the dual consolidated losses Entity 2 incurred for the years ended on Dates B and C.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Al Goldstein
Reviewer

Enclosure:

Copy for 6110 purposes