

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **200502011**

Release Date: 01/14/2005

Index Number: 9100.22-00, 1503.04-04

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL – PLR-116304-03

Date:

September 28, 2004

In Re:

**LEGEND**

Taxpayer =

Individual =

A

Individual =

B

Individual =

C

Law Firm =

Dear :

This replies to a letter dated March 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 electronically transmitted on April 20, 2004, and April 21, 2004. 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.

Individual A is an officer of Taxpayer and is principally responsible for preparing the federal consolidated tax returns of the affiliated group of which Taxpayer is the common

parent. The federal consolidated tax returns included the tax years at issue. Individual B was a partner with Law Firm and was actively involved in the review of these same tax returns, and worked closely with Individual A in the preparation of the tax returns. Individual C was an associate with Law Firm, and examined copies of Taxpayer's consolidated tax returns for the tax years at issue while performing the duty of due diligence in connection with a merger transaction involving Taxpayer.

The affidavits of Individuals A, B and C, and the facts submitted explain the circumstances that led to the examination of the tax returns and the subsequent finding that Taxpayer should request relief to file the election agreements and annual certifications with respect to the entities listed on Schedule A. Taxpayer believes that it has acted in good faith because it has requested relief before the Service has discovered the necessity for Taxpayer to make these filings.

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 filings described in § 1.1503-2(g)(2) 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 of 45 days from the date of this ruling letter to file the election agreement described in § 1.1503-2(g)(2)(i), and the annual certification described § 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.

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.

Sincerely,

Associate Chief Counsel (International)

By: \_\_\_\_\_  
Allen Goldstein  
Reviewer

Enclosure:  
Schedule A  
Copy for 6110 purposes

SCHEDULE A

[illegible]

CC: