

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL – PLR-154587-02

Date:

September 28, 2004

LEGEND

Taxpayer =

Individual =
A

CPA Firm =

Date One =

Dear :

This replies to a letter dated October 3, 2002, 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 to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the entities and tax years listed on Exhibit A, which is attached and made a part of this ruling letter. Additional information was submitted in a letter dated January 20, 2004, and in an electronic transmission dated February 18, 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.

Taxpayer filed Form 7004, Application for Automatic Extension of Time To File Corporation Income Tax Return, in order to extend the time to file Taxpayer's consolidated group corporation income tax return for the tax year ended on Date One. Later, Taxpayer was notified by the IRS that Form 7004 was not filed by its due date.

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Taxpayer was concerned that certain elections would be late, including elections under § 1.1503-2(g)(2), which would have been filed with its tax return by the extended due date. Taxpayer requested Individual A, a partner with CPA Firm, to determine which elections, if any, could be affected by the late receipt of Form 7004 by the IRS, and what protective action, if any, could be taken. Individual A determined that the election agreements required under § 1.1503-2(g)(2)(i), and the annual certifications required under § 1.1503-2(g)(2)(vi) would be late. Taxpayer is requesting relief before the failure to file the election agreements and annual certifications has been discovered by the IRS.

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 agreement and the annual certification are regulatory elections within the meaning of § 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 standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, 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 ruling letter to file the election agreement described in § 1.1503-2(g)(2)(i), and to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the entities and tax years listed on Exhibit A.

As provided in § 301-9100-1(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.

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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.

A copy of this ruling letter should be associated with the filing of the election agreements and the annual certifications, as listed on Exhibit A.

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. Nor have rulings been requested and none are expressed as to whether annual certifications described in § 1.1503-2(g)(2)(vi)(B) are needed for any entity you have described on Exhibit A as not being a hybrid entity separate unit. Furthermore, no opinion is expressed regarding the accuracy of whether an entity listed on Exhibit A is or is not a hybrid entity separate unit.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representatives

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Attachments
Exhibit A
Copy for 6110 purposes

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