

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-168441-02

Date:

October 29, 2004

In Re:

LEGEND

Taxpayer =

Subsidiary =

Date 1 =

Date 2 =

Date 3 =

Individual =

A

Dear :

This replies to a letter dated December 16, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement described in §1.1503-2(g)(2)(i) with respect to Subsidiary for the tax year ended on Dates 1, 2 and 3, and to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) as follows: (i) for the tax year ended on Date 2, with respect to the dual consolidated loss of Subsidiary incurred in the tax year ended on Date 1, and (ii) for the tax year ended on Date 3, with respect to the dual consolidated loss of Subsidiary incurred in the tax year ended on Dates 1 and 2. Additional information was submitted in a letter dated June 10, 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 the director of the office of federal and international tax for Taxpayer. The affidavit of Individual A and the facts submitted describe the circumstances and set forth the reasons surrounding Taxpayer's request for relief with respect to the tax years at issue. Taxpayer believes that it has acted reasonably and in good faith because Taxpayer has requested relief before the IRS has discovered that Taxpayer should have filed the election agreements.

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 described in § 1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) 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 and agreement described in § 1.1503-2(g)(2)(i) with respect to Subsidiary for the tax year ended on Dates 1, 2 and 3, and to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) as follows: (i) for the tax year ended on Date 2, with respect to the dual consolidated loss of Subsidiary incurred in the tax year ended on Date 1, and (ii) for the tax year ended on Date 3, with respect to the dual consolidated loss of Subsidiary incurred in the tax year ended on Dates 1 and 2.

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, and the other authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure:
Copy for 6110 purposes