

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:BR5 – PLR-152655-03

Date: December 9, 2004

Legend

Taxpayer =

Company 1 =

CPA Firm =

Individual A =

Date A =

Date B =

Dear :

This replies to a letter dated Date A, requesting that Taxpayer and Company 1 (herein after collectively referred to as the “Taxpayers”) be granted an extension of time under Treas. Reg. § 301.9100-3 to submit a request to enter into a closing agreement pursuant to Rev. Proc. 2000-42, 2000-2 C.B. 394. 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 taxpayers and accompanied by penalty of perjury statements executed by appropriate parties. 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 part of the audit process.

On Date B, Taxpayer acquired Company 1. After the acquisition, Taxpayer sought professional tax advice from CPA Firm. While CPA Firm was providing consulting services to Taxpayer, it was discovered that Company 1 had failed to request to enter into a closing agreement in a timely manner pursuant to section 3.02 of Rev. Proc. 2000-42. Prior to the acquisition, Individual A was responsible for ensuring that Company 1 complied with applicable federal income tax law, but was unaware of and did not file a request to enter into a closing agreement pursuant to Rev. Proc. 2000-42.

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 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 request to enter into a closing agreement 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 the Taxpayers an extension of time, provided that the Taxpayers satisfy the rules set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and information submitted, we conclude that the Taxpayers satisfy Treas. Reg. § 301.9100-3(a). Accordingly, the Taxpayers are granted an extension of time, until 45 days from the date of this ruling letter, to submit a request to enter into a closing agreement pursuant to Rev. Proc. 2000-42.

The granting of an extension of time is not a determination that the Taxpayers are otherwise eligible to submit a request to enter into a closing agreement. Treas. Reg. § 301.9100-1(a).

A copy of this ruling letter should be associated with the request to enter into a closing agreement.

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

Enclosure:

Copy for 6110 purposes