

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200519024**

Release Date: 5/13/2005

Index Number: 9100.22-00, 1503.04-04

Person To Contact:

Telephone Number:

Refer Reply To:

CC:INTL:BR5 – PLR-146822-03

Date: February 9, 2005

Legend

Taxpayer =

Company 1 =

Entity A =

CPA Firm 1 =

CPA Firm 2 =

Individual A =

Individual B =

Individual C =

Date A =

Date B =

Date C =

Date D =

Date E =

Date F =

Date G =

Date H =

Date I =

Date J =
Dear :

This replies to letters dated Date A and Date B, in which Taxpayer and Company 1 (herein after collectively referred to as the “Taxpayers”) request an extension of time under Treas. Reg. § 301.9100-3 to file agreements described in Treas. Reg. § 1.1503-2(g)(2)(i) (“2(g)(2)(i) agreements”) and to file annual certifications described in Treas. Reg. § 1.1503-2(g)(2)(vi)(B) (“2(g)(2)(vi)(B) annual certifications”) in accordance with Schedule A, which is attached to and made part of this ruling letter. Additional information was submitted in a letter dated December 27, 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 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 G, Taxpayer acquired Company 1. After the acquisition, Taxpayer sought professional tax advice from CPA Firm 1. While CPA Firm 1 was providing consulting services to Taxpayer, it was discovered that Company 1 had not filed 2(g)(2)(i) agreements for tax years ending Date C, Date D, Date E, Date F and Date G and 2(g)(2)(vi)(B) annual certifications for tax years ending Date D, Date E, Date F and Date G. 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 the file the 2(g)(2)(i) agreements and the 2(g)(2)(vi)(B) annual certifications with respect to Company 1’s ownership of Entity A. Additionally, the auditor for Company 1, CPA Firm 2, did not make Individual A aware of the filing requirements described in Treas. Reg. § 1.1503-2(g)(2).

For the tax year ending Date I, CPA Firm 1 prepared a 2(g)(2)(i) agreement and a 2(g)(2)(vi)(B) annual certification for Taxpayer, which were reviewed by Individual B, whose employment with Taxpayer ended shortly thereafter. While preparing the tax return for Taxpayer for the tax year ending Date J, Individual C, employed by Taxpayer, discovered that for the tax year ending Date I the 2(g)(2)(i) agreement was not signed by the officer who signed the tax return. The 2(g)(2)(i) agreement was signed by Individual B who was not authorized to sign the tax return. Also, the 2(g)(2)(vi)(B) annual certification was not attached to the tax return. Additionally, during the preparation of the letter dated Date A Taxpayer discovered that the 2(g)(2)(i) agreement and 2(g)(2)(vi)(B) annual certifications for the tax year ending Date H were not filed.

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 agreements and annual certifications described in Treas. Reg. § 1.1503-2(g)(2) are regulatory elections 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 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 of 45 days from the date of this ruling letter to file the agreements described in Treas. Reg. § 1.1503-2(g)(2)(i) and to file the annual certifications described in Treas. Reg. § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule A. An extension of time to file a 2(g)(2)(i) agreement for the tax year ended on Date 1 is allowed because the Taxpayers satisfy § 301.9100-3(a) and because the 2(g)(2)(i) agreement filed for that tax year was not a valid agreement as the agreement was not signed by the officer who signed the tax return.

The granting of an extension of time is not a determination that the Taxpayers are otherwise eligible to file the 2(g)(2)(i) agreements or the 2(g)(2)(vi)(B) annual certifications. Treas. Reg. § 301.9100-1(a).

A copy of this ruling letter should be associated with the 2(g)(2)(i) agreements or the 2(g)(2)(vi)(B) 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 your authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosures:

Schedule A

Copy for 6110 purposes

SCHEDULE A

LEGEND

- A = Ruling is requested under Treas. Reg. § 1.1503-2(g)(2)(i).
B = Ruling is requested under Treas. Reg. § 1.1503-2(g)(2)(vi)(B).

<u>ENTITY</u>	<u>TAX YEAR ENDING</u>	<u>RULING REQUESTED</u>
Entity A	Date C	A
	Date D	A and B
	Date E	A and B
	Date F	A and B
	Date G	A and B
	Date H	A and B
	Date I	A and B