

## Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

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Person To Contact:

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Refer Reply To:

CC:INTL

PLR-144979-03

Date:

April 12, 2005

## LEGEND

Taxpayer =

Individual A =

CPA Firm =

Date A =

Date B =

Foreign country =

A

Foreign country =

B

Dear :

This replies to a letter dated June 30, 2003, 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), 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 submitted in letters dated November 9, 2004, and March 15, 2005, and in an electronic submission on March 29, 2005. 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 has been a client of CPA Firm for many years. As a client, Taxpayer relied on CPA Firm for advice on tax matters and to review Taxpayer's tax returns for the tax years ended on Dates A and B. Individual A is a tax partner with CPA Firm and was in charge of the Taxpayer account when the review was being conducted of the tax return for the tax year ended on Date B. After the tax return for that tax year was filed, CPA Firm discovered that it had inadvertently failed to inform Taxpayer of the requirement to file the election and agreement described in § 1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the entities and tax years listed on Schedule A.

Taxpayer represents that the income tax laws of foreign country A do not deny the use of losses, expenses, or deductions of the separate units listed on Schedule B, which is attached to and made a part of this ruling letter, to offset income of another person because the separate units are also subject to income taxation by another country on their worldwide income or on a residence basis.

Taxpayer represents that the income tax laws of foreign country B do not deny the use of losses, expenses, or deductions of the separate units listed on Schedule C, which is attached to and made a part of this ruling letter, to offset income of another person because the separate units are also subject to income taxation by another country on their worldwide income or on a residence basis.

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 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, the election and 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 standards for relief as set forth in § 301.9100-3.

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), and the annual certification described in § 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 elections and agreements. § 301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file election agreements pursuant to § 1.1503-2(c)(15)(iv).

A copy of this ruling letter should be associated with the elections and 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. Also, no opinion is expressed as to the classification of the entities listed on Schedules B and C as separate units.

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

Enclosures (4):  
Schedule A  
Schedule B  
Schedule C  
Copy for 6110 purposes



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SCHEDULE B –

SEPARATE UNITS


SCHEDULE C –

SEPARATE UNITS
