

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-153028-03

Date:
June 17, 2005

In Re:

LEGEND

Taxpayer =

Entity One =
Entity Two =
Individual =
A
Date A =

Dear :

This replies to a letter dated July 23, 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) with respect to the dual consolidated losses of Entity One and Entity Two that were incurred in the fiscal year ended on Date A. Additional information was submitted in letters dated November 2, 2004, April 1, 2005, and June 2, 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 prepared its own U.S. federal income tax return for the fiscal year ended on Date A. Individual A was the vice president of tax and legal services. In that position, Individual A was responsible for the preparation of the tax return for that year. After the tax return was filed, the return was reviewed, which led to the discovery that the election and agreement required under §1.1503-2(g)(2)(i) had not been filed with the return. Individual A states in his affidavit that he was not aware of that requirement or the related consequences of not making the election.

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) is a regulatory election 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 60 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 the dual consolidated losses of Entity One and Entity Two that were incurred in the fiscal year ended on Date 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).

A copy of this ruling letter should be associated with the elections and agreements.

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 the Taxpayer, and the other authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Meryl Silver
Meryl Silver
Reviewer

Enclosure
Copy for 6110 purposes