

Internal Revenue Service

Number: **200541021**

Release Date: 10/14/2005

Index Number: 9100.22-00, 1503.04-00

Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL

PLR-111582-04

Date:

July 07, 2005

In Re:

LEGEND

Taxpayer =

Corp X =

Individual =

A

Date A =

Date B =

Dear :

This replies to a letter dated February 13, 2004, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2)(i) (new (g)(2)(i) agreement) pursuant to § 1.1503-2(g)(2)(iv)(B)(3)(iii) in accordance with Schedule A, which is attached to and made a part of this ruling letter. 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.

On or about Date A, which was within the tax year ended on Date B, Taxpayer acquired the stock of Corp X in a tax-free acquisition. This acquisition is stated to be a triggering event under § 1.1503-2(g)(2)(iii)(A)(2) that would require a recapture of Corp X's dual consolidated losses.

Taxpayer engaged Individual A to assist with the filing of Taxpayer's federal tax return for the tax year ended on Date B. However, Individual A was not aware that an exception to recapturing the losses was available pursuant to § 1.1503-2(g)(2)(iv)(B)(3)(iii) and, therefore, a "new (g)(2)(i) agreement" was not filed as required under the exception. Subsequently, Individual A was informed of the exception by Taxpayer's other outside tax advisors.

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 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 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 60 days from the date of this ruling letter to file the agreement described in § 1.1503-2(g)(2)(i) (new (g)(2)(i) agreement) pursuant to § 1.1503-2(g)(2)(iv)(B)(3)(iii) in accordance with Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the "new (g)(2)(i) agreement". § 301.9100-1(a).

A copy of this ruling letter should be associated with the “new (g)(2)(i) 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. Further, no opinion is expressed as to whether the amounts of the dual consolidated losses reported on Schedule A are correct.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Meryl Silver

Meryl Silver
Reviewer

Enclosure:
Schedule A
Copy for 6110 purposes

SCHEDULE A