

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR:104660-99
Date:
June 29, 1999

LEGEND

Taxpayer =

Parent =

CPA Firm =

Individual A =

Year One =

Date A =

Date B =

Dear :

This replies to a letter dated February 5, 1999, submitted on behalf of Taxpayer, in which an extension of time under Treas. Reg. § 301.9100-3 is requested to permit Taxpayer to file Form 8279, Election To Be Treated as a FSC or as a Small FSC, as provided by Temp. Treas. Reg. § 1.921-1T(b)(1), Q&A 1, effective for the tax year beginning on Date A. 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

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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.

Individual A is a manager with CPA Firm and was advising Parent on its FSC issues. During Year One, Parent and CPA Firm had various discussions regarding the statutory and regulatory requirements of establishing and maintaining a FSC. CPA Firm informed Parent of the foreign management and economic process tests required to be met on an annual basis. Moreover, CPA Firm informed Parent about the necessity to file an election to establish a foreign corporation as a FSC within the prescribed period. However, Individual A failed to advise Parent of the deadline for the timely filing of Form 8279. The tax year affected by this request for relief is the tax year beginning on Date A and ending on Date B.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner in exercising the Commissioner's discretion may grant 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 provides rules for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute. A regulatory election means an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement. § 301.9100-1(b).

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, §1.921-1T(b)(1), Q&A 1, fixes the time to elect treatment as an FSC or small FSC. Thus, the Commissioner has discretionary authority pursuant to § 301.9100-1(c) to grant Taxpayer an extension of time as requested, provided that Taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file Form 8279 effective for the tax year beginning on Date A.

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This ruling is directed only to the taxpayer who requested it. I.R.C. § 6110(j)(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 letter is being sent to your authorized representatives.

Sincerely,

/s/ Allen Goldstein
Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)