

Internal Revenue Service

Department of the Treasury

Index Number: 9100.18-00

Washington, DC 20224

Number: **199943019**

Person to Contact:

Release Date: 10/29/1999

Telephone Number:

Refer Reply To:

CC:INTL:PLR:106838-99

Date:

Jul 30, 1999

In re:

LEGEND

Taxpayer =

Date A =

Date B =

Dear :

This replies to a letter dated March 24, 1999, submitted on behalf of Taxpayer, requesting an extension of time under Treas. Reg. § 301.9100-3 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 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 was incorporated on Date A in a foreign country and should have filed Form 8279 on or before Date B. However, Taxpayer overlooked the instructions from the management company, which assisted in the formation of Taxpayer, to file Form 8279 within 90 days of Date A. Consequently, Form 8279 was not filed. Taxpayer is applying for relief before the failure to file Form 8279 is discovered by the IRS.

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, provided that Taxpayer acted

reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

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.

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.

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 the Taxpayer.

Sincerely,

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