

Internal Revenue Service

Department of the Treasury

Index Number: 9100.18-00

Washington, DC 20224

Number: **199914024**
Release Date: 4/9/1999

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:BR1:PLR:117561-98

Date:

January 7, 1999

LEGEND

Taxpayer =

CPA Firm =

Individual A =

Dear

This replies to a letter dated September 9, 1998, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 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 January 1, 1998. 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.

Individual A is a Senior Manager of federal taxes in CPA Firm. One of Individual A's

In re: PLR:117561-98

assignments was to ensure that an election to treat Taxpayer as a FSC was timely filed with the IRS.

On or about June 12, 1998, Individual A was preparing the quarterly estimated tax payments for Taxpayer, and noted that Taxpayer had not received a notice of acceptance regarding its FSC election from the IRS. Individual A then looked through the files and discovered that Form 8279 had not been filed. Form 8279 was required to be filed on or before March 31, 1998 in order to apply to all of calendar year 1998.

Individual A states that due to the workload in his office and the volume of materials involved in establishing and qualifying Taxpayer as a FSC under U.S. and foreign laws, Individual A had mistakenly believed that he had forwarded Form 8279 to Taxpayer's U.S. parent company for signature.

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.

Treas. Reg. § 301.9100-3(b)(1) provides that, subject to § 301.9100-3(b)(3)(I) through (iii), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer-- (v) Reasonably relied on a qualified tax professional and the tax professional failed to make, or advise the taxpayer to make, the election.

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

In re: PLR:117561-98

§ 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 acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government. 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 taxable year beginning January 1, 1998.

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 Taxpayer's authorized representatives.

Sincerely,

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