

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-150894-01

Date:

April 25, 2002

LEGEND

Taxpayer =

Branch A, B =

Dates A, B =

Individuals A, B =

CPA Firm =

Dear :

This replies to your letter dated September 12, 2001, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2)(i) with respect to the losses of Branch A occurring in the tax years ended on Dates A and B, and with respect to the losses of Branch B for the tax year ended on Date B. Additional information was submitted in a letter dated February 8, 2002. 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 the Secretary of Taxpayer, and Individual B is a partner with CPA Firm. The affidavits of Individuals A and B describe the circumstances surrounding the discovery and failure to file the agreements. The affidavits and the facts submitted show that Taxpayer relied on CPA Firm and CPA Firm failed to file the agreements with the tax returns for the tax years ended on Dates A and B.

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,

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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 agreement 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 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 the agreement described in § 1.1503-2(g)(2)(i) with respect to the losses of Branch A occurring in the tax years ended on Dates A and B, and with respect to the losses of Branch B for the tax year ended on Date B.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements. § 301.9100-1(a). A copy of this ruling letter should be associated with the 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.

Sincerely,

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