

**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-115667-02

Date:

February 13, 2003

**LEGEND**

Parent =

Taxpayer =

Individual A =

CPA Firm =

Date A =

Date B =

Dear :

This replies to a letter dated March 11, 2002, 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, pursuant to Temp. Treas. Reg. § 1.921-1T(b)(1), Q&A 1, 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.

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On Date B, a letter ruling was issued to Taxpayer in which Taxpayer was granted an extension of time until 30 days from Date B to file Form 8279 for the tax year beginning on Date A.

Individual A is the tax manager of Parent and is responsible for all tax issues involving Parent and its subsidiaries, including Taxpayer. The affidavit of Individual A and the facts submitted describe the misunderstanding between Individual A and CPA Firm that led to the failure to file Form 8279 within 30 days of Date B, as required by the letter ruling issued on Date B.

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, §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.

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 for the tax year beginning on Date A.

The granting of an extension of time to file Form 8279 is not a determination that Taxpayer is otherwise eligible to file Form 8279. § 301.9100-1(a).

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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.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

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

Enclosure:

Copy for 6110 purposes