

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-116141-02

Date:

April 28, 2003

In re:

LEGEND

Taxpayer =

Individual A =

Dear :

This replies to your letter dated March 13, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the following elections: (1) the agreement described in § 1.1503-2A(c)(3) in accordance with Schedule A; (2) to replace the agreements filed under § 1.1503-2A(c)(3) in accordance with Schedule A with the election and agreement described in § 1.1503-2(g)(2)(i), pursuant to the transitional rule described in § 1.1503-2(h)(2)(ii), in accordance with Schedule B; (3) the election and agreement described in § 1.1503-2(g)(2)(i) in accordance with Schedule C; and (4) the annual certification described in § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule D. Schedules A, B, C and D are made a part of this ruling letter. Additional information was submitted on September 10, 2002, and April 8, 2003. 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 was employed in the tax department of Taxpayer during the tax years at

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issue. The affidavit of Individual A and the facts submitted describe the circumstances that led to the discovery of and reasons for Taxpayer's failure to file the elections which are the subject of this request. The affidavit and facts indicate that Taxpayer relied on its tax professionals to advise it as to all necessary elections and its tax professionals failed to advise Taxpayer to make these elections. Taxpayer is requesting relief before its failure to file the elections has been discovered by the Service.

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 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 elections and agreements and the annual certifications are regulatory elections 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 following elections: (1) the agreement described in § 1.1503-2A(c)(3) in accordance with Schedule A; (2) to replace the agreements filed under § 1.1503-2A(c)(3) in accordance with Schedule A with the election and agreement described in § 1.1503-2(g)(2)(i), pursuant to the transitional rule described in § 1.1503-2(h)(2)(ii), in accordance with Schedule B; (3) the election and agreement described in § 1.1503-2(g)(2)(i) in accordance with Schedule C; and (4) the annual certification described in § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule D.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements and the annual certifications. § 301.9100-1(a).

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A copy of this ruling letter should be associated with the elections and agreements and the annual certifications.

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 ruling letter is being sent to your authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosures:

Schedules A, B, C, D
Copy for § 6110 purposes

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SCHEDULE A

An extension of time is requested to file the agreement described in § 1.1503-2A(c)(3) with respect to the dual consolidated losses of each entity listed below incurred in the tax year ended on _____, with the tax return filed for the tax year ended on _____.

ENTITY	IDENTIFICATION NUMBER

SCHEDULE B

An extension of time is requested to replace the agreements filed under § 1.1503-2A(c)(3) in accordance with Schedule A above with agreements described in § 1.1503-2(g)(2)(i), under the transitional rule provided in § 1.1503-2(h)(2)(ii), with the tax return filed for the tax year ended on _____.

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SCHEDULE C

An extension of time is requested to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses of each entity listed below incurred in the tax years ended as indicated.

NAME OF ENTITY	IDENTIFICATION NUMBER	TAX YEARS ENDED

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SCHEDULE D

An extension of time is requested to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses of _____ as follows: (1) with the tax return filed for the tax year ended on _____ the dual consolidated losses incurred in the tax year ended on _____ ; (2) with the tax return filed for the tax year ended on _____ , the dual consolidated losses incurred in each of the tax years ended on _____ and _____ .