

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200341001**

Release Date: 10/10/03

Index Number: 9100.22-00, 884.08-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC: INTL – PLR-144834-02

Date:
July 10, 2003

In re:

LEGEND

Parent =
Corp A =
Corp B =
Date A =
Date B =
Year X =
Individual A =
Individual B =
CPA Firm =

Dear :

This replies to a letter dated July 31, 2002, in which Parent, Corp A and Corp B (sometimes collectively referred to as the Taxpayers) request an extension of time under Treas. Reg. § 301.9100-3 to request a ruling under § 1.884-2T(d)(5)(ii) that the transfer in Year X is not a disposition for purposes of § 1.884-2T(d)(5)(i). Additional information was submitted on April 29, 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

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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.

On Date A, Parent transferred its US branch operations to Corp A (and Corp A transferred those operations to Corp B) in a transaction that Taxpayers state was described in IRC § 351. For the tax year ended on Date B, which included Date A, statements required under § 1.884-2T(d)(5)(i) and § 1.884-2T(d)(4)(i) were attached to the tax returns of Parent and Corp A, respectively.

In Year X, Parent transferred shares of Corp A to Corp B. Taxpayers believed that the transfer was a transfer described in IRC § 351 and, therefore, qualified for non-recognition of gain or loss to the parties involved in the transfer. Later, CPA Firm, Taxpayer's outside tax advisors, realized that a ruling should have been requested under § 1.884-2T(d)(5)(ii) that the transfer in Year X was not a disposition for purposes of § 1.884-2T(d)(5)(i). CPA Firm then recommended that Taxpayer request an extension of time under § 301.9100-3 to request a ruling under § 1.884-2T(d)(5)(ii)

Individual A is the head of Parent's tax department. Individual B is the vice president of Corp A and of Corp B. The facts submitted under penalties of perjury by Individuals A and B describe the circumstances that led to the discovery of and the reasons for the failure to request a prior ruling under § 1.884-2T(d)(5)(ii) with respect to the transfer in Year X. The facts state that relief is being requested before the failure was 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 (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.

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Under § 301.9100-1(b), an election includes an application for relief in respect of tax and the subject of this ruling request qualifies for an application for relief. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayers an extension of time, provided that Taxpayers satisfy the standards set forth in § 301.9100-3(a).

Based solely on the facts and the representations submitted, we conclude that Taxpayers satisfy § 301.9100-3(a). Accordingly, Taxpayers are granted an extension of time until 30 days from the date of this ruling letter to request a ruling under § 1.884-2T(d)(5)(ii) that the transfer in Year X is not a disposition for purposes of § 1.884-2T(d)(5)(i).

The granting of an extension of time is not a determination that Taxpayers are otherwise eligible to request a ruling letter under § 1.884-2T(d)(5)(ii). § 301.9100-1(a).

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. In particular, no opinion is expressed as to whether the transfers on Date A and in Year X qualify for non-recognition treatment.

A copy of this ruling letter should be associated with Taxpayers' request for a ruling under § 1.884-2T(d)(5)(ii).

This ruling letter 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.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being sent to Parent.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

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Enclosure
Copy for 6110 purposes