

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC:INTL – PLR-158087-02

Date:

February 10, 2004

LEGEND

Taxpayer =

Branch =

Dates 1, 2, 3, 4, 5, 6, 7 =

Individual A =

Dear :

This replies to a letter dated October 21, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to make the following filings with respect to Branch for the tax years indicated: (1) a certification described in § 1.1503-2A(d)(3) for each of the tax years ended on Dates 1 and 2; (2) the election agreement described in § 1.1503-2(g)(2)(i) to replace the certifications to be filed under § 1.1503-2A(d)(3) for the tax years ended on Dates 1 and 2, in accordance with the special transition rule in § 1.1503-2(h)(2)(ii); and (3) the election agreement described in § 1.1503-2(g)(2)(i) for each of the tax years ended on Dates 3, 4, 5, 6, and 7. Additional information was submitted on September 25, 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.

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Individual A was a vice president and tax manager of Taxpayer during the tax years at issue. Individual A was responsible for all tax matters for Taxpayer, including filing Taxpayer's tax returns and all tax planning. The affidavit of Individual A and the facts submitted explain the circumstances that led to the failure to file the election agreements, and establish that Taxpayer relied on Individual A to make the filings in a timely manner.

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, the certifications and election agreements are 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 information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this letter to make the following filings with respect to Branch for the tax years indicated: (1) a certification described in § 1.1503-2A(d)(3) for each of the tax years ended on Dates 1 and 2; (2) the election agreement described in § 1.1503-2(g)(2)(i) to replace the certifications to be filed under § 1.1503-2A(d)(3) for the tax years ended on Dates 1 and 2, in accordance with the special transition rule in § 1.1503-2(h)(2)(ii); and (3) the election agreement described in § 1.1503-2(g)(2)(i) for each of the tax years ended on Dates 3, 4, 5, 6, and 7.

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

A copy of this ruling letter should be associated with the certifications and election 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. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed as to the comments and facts stated in the footnote on page one of your ruling request.

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure:
Copy for § 6110 purposes