

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

In Re:

Refer Reply To:

CC:INTL:B04 – PLR-105626-04

Date:

February 27, 2004

LEGEND

Corp A =

Corp B =

Corp C =

Dates 1 and 2 =

Individual A =

Individual B =

CPA Firm =

Dear :

This replies to your letter dated January 29, 2004, on behalf of Corp A, requesting an extension of time under Treas. Reg. §301.9100-3 to file the agreement described in

§1.1503-2(g)(2)(i) as required by §1.1503-2(g)(2)(iv)(B)(2)(iii) for the taxable year ended on Date 2 with respect to the dual consolidated losses of Corp C, a corporation acquired by Corp B, a wholly owned subsidiary of Corp A, on Date 1. 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 part of the audit process.

Individual A is a senior director of accounting and finance at Corp B. The affidavit of Individual A and the facts submitted described the circumstances that led to the discovery that the agreement described in §1.1503-2(g)(2)(i) as required by §1.1503-2(g)(2)(iv)(B)(2)(iii) was not filed, and indicate that relief is being requested before this failure to file the agreements has been discovered by the Service. Individual B is a tax professional with CPA Firm. The affidavit of Individual B describes that Individual B was responsible for advising Corp A on tax matters, including the agreement that is the subject of this ruling request, and that Individual B failed to properly attach the requisite agreement through inadvertence.

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, §1.1503-2(g)(2)(iv)(B)(2)(iii) fixes the time to file the agreement. Therefore, the Commissioner has discretionary authority under §301.9100-1(c) to grant an extension of time to Corp A, provided that the standards set forth in §301.9100-3(a) are satisfied.

Based on the facts and circumstances of this case, we conclude that the standards set forth in §301.9100-3(a) have been satisfied. Accordingly, an extension of time until 45

days from the date of this ruling letter is granted under §301.9100-1 and §301.9100-3 to file the agreement described in §1.1503-2(g)(2)(i) as required by §1.1503-2(g)(2)(iv)(B)(2)(iii) for the taxable year ended on Date 2 with respect to the dual consolidated losses of Corp C, a corporation acquired by Corp B on Date 1.

As provided in §301.9100-1(a), the granting of an extension of time is not a determination that Corp A is otherwise eligible to file the agreement.

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.

A copy of this ruling letter should be associated with the agreements.

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. Nor is any ruling expressed as to the granting of any other extension of time to file the agreement described in §1.1503-2(g)(2)(i) other than the one specifically described in the first paragraph of this ruling letter.

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

Sincerely,

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