

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL – PLR-125982-04

Date:

June 25, 2004

In Re:

LEGEND

Taxpayer =

Individual
A =

Individual
B =

Date One =

Dear :

This replies to a letter dated May 6, 2004, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement described in §1.1503-2(g)(2)(i) as required by § 1.1503-2(g)(2)(iv)(B)(2)(iii) in accordance with Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted in a letter dated June 22, 2004. 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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Taxpayer submitted a request to enter into a closing agreement with the Service. Afterwards, the Service informed Taxpayer of the provision in § 1.1503-2(g)(2)(iv)(B)(2)(iii) that a new consolidated group must file an agreement described in § 1.1503-2(g)(2)(i) with its timely filed income tax return for the taxable year in which the event described in § 1.1503-2(g)(2)(iv)(B)(1) occurs.

Individual A is employed by a subsidiary of Taxpayer. Individual A was responsible for the preparation of the consolidated tax return of Taxpayer and its subsidiaries for the year ended on Date One.

Individual B is employed by the same subsidiary as Individual A. Individual B provides tax advice on various tax issues, including tax return compliance, to Taxpayer and its subsidiaries.

During the tax return preparation process, Individual A sought professional tax advice from Individual B regarding disclosures for the consolidated tax return because this was the first consolidated tax return filing for Taxpayer and its subsidiaries. Individual B advised Individual A regarding the required disclosures for the consolidated tax return. However, Individual B did not advise Individual A that the elections and agreements, which are the subject of this ruling request, were required to be included in the consolidated tax return for the year ended on Date One.

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 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

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In the present situation, the election and agreement described in § 1.1503-2(g)(2)(i) is 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 standards for relief as set forth in § 301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 45 days from the date of this ruling letter to file the election and agreement described in §1.1503-2(g)(2)(i) in accordance with Schedule A.

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

A copy of this ruling letter should be associated with the elections and 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. Specifically, no opinion is expressed as to the amounts of the dual consolidated losses reported on Schedule A.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosures:
Schedule A
Copy for 6110 purposes

