

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

Date of Communication: Month DD, YYYY]

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B04

PLR-139738-05

Date:

October 07, 2005

LEGEND

Taxpayer =

Transferor =

Subsidiary =

Individual =

A

Law Firm =

CPA Firm =

Date A =

Date B =

Month =

Year =

Dear

This replies to a letter dated July 21, 2005, in which Taxpayer requests a ruling under Treas. Reg. §§ 301.9100-1 and 301.9100-3 for an extension of time to provide notice required by Treas. Reg. § 1.1445-2(d)(2)(i)(A) and an extension of time to file that notice with the Director, Philadelphia Service Center, as required by Treas. Reg. § 1.1445-2(d)(2)(i)(B) with respect to the transfer of all the stock of Subsidiary on Date A from Transferor to Taxpayer. The information submitted for consideration is substantially as set forth below.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

On Date A, Transferor transferred to Taxpayer in exchange for one share (which together with the one share previously owned by the Transferor represented 100% of the Taxpayer's outstanding stock), the one outstanding share of the Transferor's wholly owned subsidiary, Subsidiary, a domestic corporation (representing 100% of the Subsidiary's outstanding stock). Since its organization in Month, Year, Subsidiary has met the definition of a United States Real Property Holding Corporation as defined in Section 897(c)(2).

Individual A is a tax partner with Law Firm who is primarily responsible for the treatment of the nonrecognition transaction described in this letter. While Taxpayer and Transferor were advised by Law Firm that the exchange described in this letter is a nonrecognition transaction in which gain or loss was not recognized, Taxpayer and Transferor were not advised that to avoid withholding, the Transferor had to provide to the Taxpayer a notice of nonrecognition and that the Taxpayer must forward such notice to the Director, Philadelphia Service Center within 20 days of the transaction. Law Firm failed to advise Taxpayer and Transferor because it was not aware of this notice requirement. CPA Firm raised the possibility of a notice requirement with Taxpayer, Transferor, and Law Firm. Individual A advised the Chief Financial Officer of both the Taxpayer and Transferor on Date B of the notice requirement, but after the 20-day period had expired.

Treas. Reg. § 301.9100-1(b) 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. § 301.9100-1(c) 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 Commission that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interest of the Government.

In the present situation, Treas. Reg. § 1.1445-2(d)(2)(i)(B) provides the time to file a notice of a nonrecognition transfer to the IRS. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this ruling letter to file a notice of the nonrecognition transfer pursuant to Treas. Reg. § 1.1445-2(d)(2)(i)(A) with respect to the transfer of all the stock of Subsidiary on Date A from Transferor to Taxpayer.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file a notice of a nonrecognition transfer with respect to the transfer of all the stock of Subsidiary on Date A from Transferor to Taxpayer. Treas. Reg. § 301.9100-1(a).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed as to whether the transfer described in this letter qualified as an exchange under §351(a) or met the definition of a nonrecognition transaction under 897(e).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

/ Thomas D. Beem  
Senior Technical Reviewer, Branch 4,  
Associate Chief Counsel (International)