

Internal Revenue Service

Department of the Treasury

Number: **200313018**
Release Date: 3/28/2003
Index Number: 9100.22-00; 1503.04-04
9100.18-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-128563-01

Date:

December 26, 2002

In re:

LEGEND

Taxpayer =

Target =

Date A =

Individual A =

Individual B =

CPA Firm =

Dear :

This replies to a letter dated May 21, 2001, in which Taxpayer requests, on its own behalf and on behalf of Target, an extension of time under Treas. Reg. § 301.9100-3 to file the following in accordance with Schedule A, which is attached and made part of this letter ruling: (1) agreements pursuant to § 1.1503-2A(c)(3)(ii); (2) agreements pursuant to § 1.1503-2(g)(2)(i); (3) annual certifications pursuant to § 1.1503-2A(c)(3)(v); (4) annual certifications pursuant to § 1.1503-2(g)(2)(vi)(B), and (5) agreements pursuant to § 1.1503-2(g)(2)(iv)(B)(2)(iii). Additional information was submitted in letters dated September 6, 2001, November 5, 2001, January 23, 2002, May 7, 2002, and November 1, 2002. The information submitted for consideration is substantially as set forth below.

In re: PLR-128563-01

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, including the information submitted on Schedule A. Verification of the factual information, representations, and other data may be required as a part of the audit process.

On Date A, Target became a wholly owned subsidiary of Taxpayer.

Individual A is the vice president of tax for Taxpayer. Individual B is a partner with CPA Firm and is the engagement partner for Taxpayer. The affidavits of Individuals A and B and the facts submitted describe the circumstances surrounding the discovery that agreements and annual certifications had not been filed with respect to certain tax years. The affidavits and facts also indicate that Taxpayer, on its own behalf and on the behalf of Target, is applying for relief before the failure to make the filings is discovered by the IRS.

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 agreements and annual certifications are regulatory elections within the meaning of § 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 set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the following in accordance with Schedule A: (1) agreements pursuant to § 1.1503-2A(c)(3)(ii); (2) agreements pursuant to § 1.1503-2(g)(2)(i); (3) annual certifications pursuant to § 1.1503-2A(c)(3)(v); (4) annual certifications pursuant to § 1.1503-2(g)(2)(vi)(B), and (5) agreements pursuant

In re: PLR-128563-01

to § 1.1503-2(g)(2)(iv)(B)(2)(iii).

As provided in § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications.

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 and annual certifications.

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. Furthermore, no opinion is expressed as the accuracy of the dual consolidated losses.

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

Sincerely,

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

In re: PLR-128563-01

Attachment
Schedule A

SCHEDULE A

Filing Year	Initial Certifications described in Treas. Reg. §1.1503-2(g)(2)(i) or §1.1503-2A(c)(3)(ii)	Annual Certifications described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) or §1.1503-2A(c)(3)(v)
	under §1.1503-2(g)(2)(i)	
	under §1.1503-2(g)(2)(i)	
	under §1.1503-2(g)(2)(i)	
	under §1.1503-2A(c)(3)(ii)	
	under §1.1503-2A(c)(3)(ii)	
	under §1.1503-2(g)(2)(i)	under §1.1503-2A(c)(3)(v) under §1.1503-2(g)(2)(vi)(B)
	under §1.1503-2(g)(2)(i)	
	under §1.1503-2(g)(2)(i)	
	under §1.1503-2A(c)(3)(ii)	
	under §1.1503-2A(c)(3)(ii)	
	under §1.1503-	

In re: PLR-128563-01

	2A(c)(3)(ii)	
--	--------------	--

	2A(c)(3)(ii) under §1.1503-	
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
	2A(c)(3)(ii) under §1.1503-	
		under §1.1503-2A(c)(3)(v) under §1.1503-2(g)(2)(vi)(B)

	2A(c)(3)(ii) under §1.1503-	
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
	2A(c)(3)(ii) under §1.1503-	under §1.1503-2A(c)(3)(v)
		under §1.1503-2A(c)(3)(v)
		under §1.1503-2A(c)(3)(v) under §1.1503-2(g)(2)(vi)(B)

	§1.1503-2(g)(2)(i) under	
--	--------------------------	--

In re: PLR-128563-01

	2A(c)(3)(ii)	under §1.1503-	
	2(g)(2)(i)	under §1.1503-	

	2A(c)(3)(ii)	under §1.1503-	
	2A(c)(3)(ii)	under §1.1503-	

	2A(c)(3)(ii)	under §1.1503-	
	§1.1503-2(g)(2)(i)	under	
	2(g)(2)(i)	under §1.1503-	