

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200409037**

Release Date: 2/27/04

Index Number: 9100.22-00, 1503.04-04

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: INTL:PLR-151336-02

Date:

November 26, 2003

In re:

LEGEND

Taxpayer =

Dates 1, 2, 3 =

Affiliates =

Individual A =

Dear :

This replies to a letter dated September 13, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 until Date 3 to attach to its U.S. income tax return for the tax year ended on Date 2 documents as provided under § 1.1503-2(g)(2)(vii)(B). 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.

On Date 1, a partnership in which Affiliates of Taxpayer held interests transferred its interest in one of the partnership assets to a related foreign party in a taxable transaction. The Affiliates of Taxpayer elected out of subchapter K with respect to the partnership in accordance with § 1.761-2(b)(2)(ii)(b). Taxpayer states that the transfer of assets was a presumptive triggering event under § 1.1503-2(g)(2)(iii)(A)(4), and that

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Taxpayer should have filed documents as provided under § 1.1503-2(g)(2)(vii)(B) with its tax return for the tax year ended on Date 2.

Individual A was a former employee of Taxpayer and is now a consultant/ independent contractor for Taxpayer. In those capacities, a primary area of responsibility of Individual A has been the preparation of the various filings required under IRC § 1503 and the income tax regulations thereunder. The affidavit of Individual A and the facts submitted indicate that the documentation was not attached to the tax return for the tax year ended on Date 2 because of an inadvertent oversight on the part of Individual A.

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.

Under § 301.9100-1(b), an election includes an application for relief in respect of tax and the subject of this ruling request qualifies as an application for relief. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time to attach to its US income tax return for the tax year ended on Date 2 documents as provided under § 1.1503-2(g)(2)(vii)(B), provided that Taxpayer satisfies the standards 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 Date 3 to attach to its U.S. income tax return for the tax year ended on Date 2 documents as provided under § 1.1503-2(g)(2)(vii)(B).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to attach the documents to its tax return for the tax year ended on Date 2. § 301.9100-1(a). Specifically, this ruling is not a determination as to whether Taxpayer has rebutted the presumption that the transaction on Date 1 was a triggering event

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within the meaning of § 1.1503-2(g)(2)(vii)(A). This determination will be made by the office of the industry director having examination jurisdiction over the tax return for the tax year at issue.

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

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.

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure
Copy for 6110 purposes