

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

Telephone Number:

Refer Reply To:

CC:INTL – PLR-135210-03

Date:

April 29, 2004

In re:

LEGEND

Taxpayer =

Entity A =

Entity B =

Individual A =

Individual B =

CPA Firm =

Date A =

Date B =

Date C =

Dear ,

This replies to a letter dated May 14, 2003, in which Taxpayer requests an extension of time under Treas. Reg. §301.9100-3 to file the election agreement described in §1.1503-2(g)(2)(i) (the 2(g)(2)(i) agreement) for the tax year ended on Date A with respect to Entity A's and Entity B's dual consolidated losses and the annual certification statement described in §1.1503-2(g)(2)(vi)(B) (2(g)(2)(vi)(B) certification) for tax years ended on Date B and Date C with respect to Entity A's and Entity B's dual consolidated losses incurred in the tax year ended on Date A. The information submitted for consideration is substantially as set forth below.

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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.

Individual A is the Tax Director for Taxpayer with respect to international matters. In this capacity, Individual A engaged CPA firm to prepare Taxpayer's international tax filings for the tax years ended on Date A and Date B. For tax year ended on Date C, Taxpayer relied on Individual A to prepare its international tax filings. The affidavits of Individual A and Individual B and the facts submitted show that Individual A failed to file, or advise Taxpayer to file, the 2(g)(2)(vi)(B) certifications for the tax year ending on Date C.

Individual B is a tax partner in CPA firm and has been a certified public accountant for over thirteen years. Individual B was in charge of review of the international operations portions of taxpayer's federal income tax returns for tax years ending on Date A and Date B. The affidavits of Individuals B and A and the facts submitted show that Individual B failed to make, or timely advise taxpayer to make, the elections for the tax year ending on Date A and to file the certifications for the tax year ending on Date B.

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 described in § 1.1503-2(g)(2) are regulatory elections 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 rules set forth in §301.9100-3(a).

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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 agreement described in §1.1503-2(g)(2)(i) for the tax year ended on Date A with respect to Entity A's and Entity B's dual consolidated losses and an extension of time of 45 days from the date of this ruling letter to file the annual certification required under §1.1503-2(g)(2)(vi)(B) for tax years ended on Date B and Date C with respect to Entity A's and Entity B's dual consolidated losses incurred in the tax year ended on Date A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the 2(g)(2)(i) election agreements and the 2(g)(2)(vi)(B) certifications. §301.9100-1(a).

A copy of this ruling letter should be associated with the 2(g)(2)(i) agreements and the 2(g)(2)(vi)(B) 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.

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