

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-150580-01

Date:

April 12, 2002

In re:

LEGEND

Taxpayer =

Entity =

Dates A, B =

Internal Tax Manager =

External Tax Advisor A =

External Tax Advisor B =

Dear :

This replies to your letter dated September 12, 2001, submitted on behalf of Taxpayer, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file an annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date A with respect to the losses of Entity occurring in the tax year ended on Date 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.

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The affidavits of the Internal Tax Manager and External Tax Advisors A and B, and the facts submitted describe the circumstances surrounding the discovery and failure to file the annual certification. The affidavits and the facts show that Taxpayer relied on these tax professionals to advise Taxpayer with respect to all necessary elections, including the election for relief from IRC § 1503(d). However, these tax professionals failed to make certain that Taxpayer filed the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date A with respect to the losses of Entity occurring in the tax year ended 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 annual certification 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 rules 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 an annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date A with respect to the losses of Entity occurring in the tax year ended on Date B.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the annual certification. § 301.9100-1(a). A copy of this ruling letter should be associated with the annual certification.

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

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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 and the other authorized representative.

Sincerely,

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

cc: