

Internal Revenue Service

Department of the Treasury

Number: **200304001**

Release Date: 1/24/03

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-105062-02

Date:

October 23, 2002

In re:

LEGEND

Parent =

Taxpayer =

Branch =

Dates 1, 2, 3, 4, 5, 6, 7 =

Individual A =

Dear :

This replies to your letter dated January 12, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the certification statement described in § 1.1503-2A(d)(3) with respect to the losses incurred by Branch for the tax years ended on Dates 1, 2, 3, 4 and 5; and to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the losses incurred by Branch for the tax years ended on Dates 6 and 7. Additional information was submitted in letters dated June 17, 2002, and September 12, 2002. 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 an officer of the Parent of Taxpayer. The affidavit of Individual A and the facts submitted state that Taxpayer requested a closing agreement pursuant to § 1.1503-2(g)(2)(iv)(B)(2)(i) and, at that time, the Taxpayer informed the Service that Taxpayer needed to bring itself into compliance with § 1.1503-2A(d)(3) and § 1.1503-2(g)(2)(i) for the tax years at issue. Taxpayer is requesting this relief before its failure to file the statements required by § 1.1503-2A(d)(3) and § 1.1503-2(g)(2)(i) has been discovered by the Service.

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 certification described in § 1.1503-2A(d)(3) and the election and agreement described in § 1.1503-2(g)(2)(i) 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).

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 certification statement described in § 1.1503-2A(d)(3) with respect to the losses incurred by Branch for the tax years ended on Dates 1, 2, 3, 4 and 5; and to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the losses incurred by Branch for the tax years ended on Dates 6 and 7.

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The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the certification statement described in § 1.1503-2A(d)(3) and the election and agreement described in § 1.1503-2(g)(2)(i). § 301.9100-1(a).

A copy of this ruling letter should be associated with the certifications and the elections and agreements.

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.

Sincerely,

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