

## Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:  
CC:INTL:PLR-109076-99  
Date:  
November 12, 1999

### LEGEND

Taxpayer =

Year One =

Employee A =

Dear

This replies to your letter dated April 26, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to make an election under § 1.884-1(e)(3) to reduce its U.S. liabilities. Additional information was submitted in letters dated September 2, 10, and 23, 1999. 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.

Employee A who worked alone in gathering information necessary for the preparation of Taxpayer's tax return died suddenly. Because of a lengthy delay in finding a qualified replacement for Employee A, Taxpayer was unable to timely file its U.S. tax return for Year One. Therefore, Taxpayer was unable to make a timely election under § 1.884-1(e)(3). Taxpayer is requesting relief to make the election under § 1.884-1(e)(3) before the failure to make the election is discovered by the IRS.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards 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.

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Treas. Reg. § 301.9100-1(b) 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. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

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, § 1.884-1(e)(3) fixes the time to make the election. 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 make an election under § 1.884-1(e)(3) to reduce its U.S. liabilities.

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. It specifically should be noted that this ruling will have no effect whatsoever as to the Federal income tax consequences relating to the late filing of Taxpayer's tax return.

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

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.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being sent to your authorized representatives.

Sincerely,

/s/ Allen Goldstein, Reviewer

Office of the Associate Chief Counsel (International)