

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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CC:INTL:PLR-126213-01

Date:

November 29, 2001

LEGEND

Taxpayer	=
Entity A	=
Dates A and B	=
Individuals A, B, C	=
CPA Firm	=

Dear :

This replies to a letter dated May 7, 2001, submitted on your behalf by your authorized representative, in which an extension of time is requested under Treas. Reg. § 301.9100-3 to allow Taxpayer to file the following with respect to Entity A: (i) the agreement described in § 1.1503-2(g)(2)(i) for each of the tax years ended on Dates A and B; and (ii) the annual certification described in § 1.1503-2(g)(2)(vi), which was required to be attached to the tax return filed for the fiscal year ended on Date B with respect to the losses arising in the tax year ended on Date A. (Hereinafter the agreement and the annual certification will sometimes be referred to collectively as "the statements".) 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.

Individual A is the tax director of Taxpayer. Individuals B and C are both partners with CPA Firm. The affidavits of Individuals A, B and C, and the facts submitted describe the circumstances surrounding the failure to file the statements. Taxpayer is requesting relief before the failure to attach the statements to the tax returns was discovered by the IRS.

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.

In re: PLR-126213-01

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 statements 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 following with respect to Entity A: (i) the agreement described in § 1.1503-2(g)(2)(i) for each of the tax years ended on Dates A and B; and (ii) the annual certification described in § 1.1503-2(g)(2)(vi), which was required to be attached to the tax return filed for the fiscal year ended on Date B with respect to the losses arising 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 statements. § 301.9100-1(a). A copy of this ruling letter should be associated with the statements.

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 your authorized representative.

Sincerely,
Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)