

## Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

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Person to Contact:

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Telephone Number:

Refer Reply To:

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Date:

May 23, 2000

### LEGEND

Taxpayer =

Date A =

Date B =

Year One =

Dear :

This replies to a letter dated September 22, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to make elections under § 1.884-2T(d)(4) for Year One. 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.

You state that Taxpayer's first United States federal income tax return was due on Date A. You further state that Taxpayer was eligible for an automatic extension of time to file its return for Year One and that due to an inadvertent oversight, Taxpayer failed to file its request for an automatic extension of time to file its tax return for Year One.

On Date B, which was after Date A, prior to filing its tax return for Year One, Taxpayer discovered that its failure to timely file its tax return for Year One would render invalid any election under § 1.884-2T(d)(4) made with its late-filed tax return for Year One. Accordingly, Taxpayer included a statement with its tax return for Year One stating its intentions to file a request for section 9100 relief to enable it to make valid § 884 elections for Year One. The IRS did not discover Taxpayer's failure to timely file elections under § 1.884-2T(d)(4) before this request for relief was filed.

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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.

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, § 1.884-2T(d)(4) fixes the time to make the elections. 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 elections under § 1.884-2T(d)(4) for Year One. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the elections. § 301.9100-1(a).

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.

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

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 representative.

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