

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR:117858-99

Date:

March 14, 2000

In re:

LEGEND

Taxpayer =

Entity (1), (2), (3), (4) =
(Collectively, "Entities")

CPA Firm =

Date A =

Date B =

Dear

This replies to a letter dated October 25, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement and certifications described in § 1.1503-2(g)(2)(i) for the losses incurred by Entities for the fiscal year ended on Date A. 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.

During the fiscal year ended on Date A, Taxpayer was the domestic owner of the foreign Entities, which generated federal tax losses. Taxpayer represents that each Entity constitutes a separate unit as described in § 1.1503-2(c)(3)(i). Taxpayer further represents that it was eligible to file the election described in § 1.1503-2(g)(2) to claim the deduction for the dual consolidated losses of these Entities for the fiscal year ended on Date A.

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Taxpayer relied on CPA Firm for tax advice, including the filing requirements involving the use of losses under I.R.C. § 1503(d)(2). CPA Firm prepared Taxpayer's Form 1120 consolidated tax return for the fiscal year ended on Date A but failed to attach the required statements to Form 1120 as required by § 1.1503-2(g)(2)(i). During the preparation of Form 1120 for the short year ended on Date B, CPA Firm realized that a dual consolidated loss statement should have been filed with the prior fiscal year's return.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner may grant a taxpayer a reasonable extension of time to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I under the standards set forth in § 301.9100-3

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.

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, § 1.1503-2(g)(2)(i) fixes the time to file the agreement and certifications. 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 file the agreement and certifications described in § 1.1503-2(g)(2)(i) for the losses incurred by Entities for the fiscal year ended on Date A. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the election. § 301.9100-1(a).

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.

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Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to Taxpayer.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)