

# Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B02

PLR-144772-03

Date:

August 16, 2004

In Re:

DO:

TY:

## LEGEND

Taxpayer A =

Country A =

Corporation X =

Accountant Y =

Date 1 =

Date 2 =

Dear :

This is in response to a letter dated July 25, 2003, submitted on your behalf by your authorized representative, requesting an extension of time under Treas. Reg. § 301.9100-1 to elect the provisions of section 911 of the Internal Revenue Code ("Code") for tax year . Additional information was submitted on September 25, 2003, September 30, 2003, November 9, 2003, November 10, 2003, November 11, 2003, February 1, 2004, March 8, 2004, April 12, 2004, May 26, 2004, and August 5, 2004.

The ruling contained in this letter is based upon information and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement

executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Taxpayer A was working for Corporation X in Country A from Date 1 to Date 2. Corporation X had engaged the services of Accounting Firm Z to provide services to certain of its expatriate employees on foreign assignments, including Taxpayer A. The services included, among others, dealing with Taxpayer A directly to obtain the relevant information, preparing his federal income tax return, and requesting any appropriate filing extension from the relevant tax agencies.

Based on an affidavit by Accountant Y, a manager with Accounting Firm Z, neither he nor any one of his supervisees, advised Taxpayer A of the consequences for failure to file his federal income tax return for tax year        on a timely basis and the failure to timely elect the foreign earned income exclusion under Treas. Reg. § 1.911-7.

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 section 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 section 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.

Treas. Reg. § 301-9100-3(b)(1)(v) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

Based on the facts and circumstances of this case, we conclude that Taxpayer A satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer A is granted an extension of time until 45 days from the date of this ruling letter to elect the foreign earned income exclusion for tax year

No opinion is expressed as to whether Taxpayer satisfied the requirements for the exclusion provided under section 911(a) of the Code.

A copy of this ruling letter should be attached to Taxpayer A's federal income tax return for the relevant year.

A copy of this letter is being sent to Taxpayer A's authorized representative.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Allen Goldstein  
Reviewer  
Office of the Associate Chief