

# Internal Revenue Service

# Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-143243-01

Date:

March 7, 2002

In re:

## LEGEND

Taxpayer	=		
Five distributions	=	(1)	(2)
		(3)	(4)
		(5)	
Individuals A, B, C	=	(A)	
		(B)	
		(C)	
Law Firm	=		
CPA Firm	=		

Dear :

This replies to a letter dated August 13, 2001, in which Taxpayer requests a ruling under Treas. Reg. § 301.9100-3 for an extension of time to file a “notice of nonrecognition transfer” pursuant to § 1.1445-5(b)(2)(B)(ii) with respect to each of the five distributions of property by Taxpayer to its sole stockholder. 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 a tax partner with Law Firm, and Individual B is a tax consultant with CPA Firm. Both were competent to render advice to Taxpayer regarding the U.S. tax aspects of a “notice of nonrecognition transfer” with respect to each of the five distributions. Despite Taxpayer’s reliance upon them for this tax advice, both failed to provide timely advice to Taxpayer regarding this requirement.

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

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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 § 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, § 1.1445-5(b)(2)(B)(ii) provides the time to file a “notice of nonrecognition transfer” to the IRS. 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 a “notice of nonrecognition transfer” pursuant to § 1.1445-5(b)(2)(B)(ii) with respect to each of the five distributions of property by Taxpayer to its sole stockholder.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file a “notice of nonrecognition transfer” with respect to each of the five distributions. § 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.

A copy of this ruling letter should be associated with each of the “notice of nonrecognition of transfer” filed.

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 letter is being sent to the Taxpayer and the other authorized representative.

Sincerely,

/s/ Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)