

**Internal Revenue Service**

Department of the Treasury

Number: **200042017**  
Release Date: 10/20/2000  
Index Number: 9100.22-00  
936.00-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

**CC:INTL:PLR-119149-99**

Date:

July 21, 2000

In re:

**LEGEND**

- Taxpayer =
- Parent =
- Affiliate =
- Date A =
- Date B =
- Date C =
- CPA Firm =

Dear :

This replies to a letter dated April 12, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 5712, Election to Be Treated as a Possessions Corporation Under Section 936, for the tax year ended on Date A. Additional information was submitted in letters dated July 21, 1999, and October 15, 1999. The information submitted for consideration is substantially as set forth below.

Based upon similar facts represented herein, a similar letter ruling is being issued to Affiliate concurrent with this letter ruling.

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.

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You state that based on the provisions of Treas. Reg. § 1.6081-5(a)(4), the time for filing the U.S. tax return of Taxpayer for the short-year ended on Date A was automatically extended to Date B. However, before Date B, Parent's international tax group intended to extend the due date from Date B to Date C. This was noted on the corporate tax calendar.

Parent's international tax staff prepared Taxpayer's U.S. income tax return before Date C. Included in the U.S. income tax return was Form 5712, Election to Be Treated as a Possessions Corporation Under Section 936. Two days before Date C, CPA Firm reviewed the tax return. On Date C, as the tax return was being processed for mailing to the Internal Revenue Service, it was discovered for the first time that the extension required to be filed on or before Date B had not been filed. The failure to file the extension request was due to a misunderstanding by the staff person responsible for preparing the extension that the extension request was not required due to a ruling request pending with the IRS. The IRS has not discovered the failure to make the section 936 election.

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, Treas. Reg. § 1.936-1(a) fixes the time for a domestic corporation to make an election under § 936(e). Thus, the Commissioner has discretionary authority pursuant to § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

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

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30 days from the date of this ruling letter to file Form 5712 for the taxable year ended on Date A. The granting of an extension of time to file Form 5712 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.

Except as stated in the last sentence of this paragraph, 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. In particular, no ruling is expressed as to the late filing of Taxpayer's tax return for the short-year ended on Date A, other than the ruling above regarding the filing of Form 5712. Further, no opinion is expressed as to ruling request 2 as that request was the subject of a separate ruling letter issued to Taxpayer.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer and the other representative.

Sincerely,

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