

Internal Revenue Service

Department of the Treasury

Number: **200327036**
Release Date: 7/3/2003
Index Number: 9100.22-00
 1503.04-04
 9100.18-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-161867-02

Date:

March 27, 2003

In re:

LEGEND

Taxpayer =

Entity A =

Entity B =

TYE 1, 2, 3 =

X interest =

Y interest =

Individual A =

Dear :

This replies to a letter dated November 5, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the following annual certifications as required under § 1.1503-2(g)(2)(vi) for the tax years indicated: (1) an

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annual certification for TYE 2 with respect to the dual consolidated losses for TYE 1 attributable to Taxpayer's X interest in Entity A; (2) an annual certification for TYE 3 with respect to the dual consolidated losses for TYE 1 and TYE 2 attributable to Taxpayer's X interest in Entity A; and (3) an annual certification for TYE 3 with respect to the dual consolidated losses for TYE 2 attributable to Taxpayer's Y interest in Entity B. 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 tax years at issue, Individual A served as the senior manager of tax for Taxpayer and then as the director of tax. Individual A was responsible for the U.S. tax information reporting related to Taxpayer's foreign operations and interests in Entity A and Entity B. The affidavit of Individual A and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer's failure to file the annual certifications. Taxpayer is requesting relief before the IRS has discovered Taxpayer's failure to timely file the annual certifications.

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 § 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, the annual certification is a regulatory election as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

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Based on the facts and information submitted, 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 following annual certifications as required under § 1.1503-2(g)(2)(vi) for the tax years indicated: (1) an annual certification for TYE 2 with respect to the dual consolidated losses for TYE 1 attributable to Taxpayer's X interest in Entity A; (2) an annual certification for TYE 3 with respect to the dual consolidated losses for TYE 1 and TYE 2 attributable to Taxpayer's X interest in Entity A; and (3) an annual certification for TYE 3 with respect to the dual consolidated losses for TYE 2 attributable to Taxpayer's Y interest in Entity B.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the annual certifications. § 301.9100-1(a).

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

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.

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 authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosure:

Copy for § 6110 purposes