

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL – PLR-100138-04

Date:

September 23, 2004

In Re:

LEGEND

Taxpayer =
Corp X =
Entity A =

Entity B =

Entity C =

Entity D =

Entity E =

Entity F =

Entity G =

Entity H =

Entity I =

Entity J =

Entity K =

Entity L =

Entity M =

PLR-100138-04

Individual A =
Individual B =
Tax year X =

Dear _____ :

This replies to a letter dated December 17, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the annual certification described in §1.1503-2(g)(2)(vi) in accordance with Schedule A, which is attached to and made a part of this ruling letter. Additional information was electronically transmitted on March 16, 2004. 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 the vice president of taxes for Taxpayer. In that position, Individual A is responsible for all tax matters, which includes filing tax returns. Individual B is the director of international taxes for Corp X, which is a subsidiary of Taxpayer. Individual B is responsible for all international tax matters, which includes the determination of the amount of the dual consolidated losses to be deducted on Taxpayer's tax returns, and the preparation of disclosures related to Taxpayer's foreign entities, which includes the foreign entities listed on Schedule A. The affidavits of Individuals A and B and the facts submitted describe the circumstances surrounding the discovery that annual certifications should have been filed with respect to the foreign entities and the respective tax years listed on Schedule A.

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.

PLR-100138-04

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, the annual certification described in § 1.1503-2(g)(2)(vi) 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 standards for relief as set forth in § 301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the annual certification described in § 1.1503-2(g)(2)(vi) in accordance with Schedule A.

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. Regarding Entity B, the facts state that an election and agreement was timely filed for tax year X. However, the dollar amount of the dual consolidated loss reported on the election statement was incorrect. Taxpayer has requested relief to file an election and agreement for tax year X to report the correct amount of the loss. Because the election and agreement with respect to Entity B for tax year X was timely filed, § 301.9100-3 does not apply in this situation, despite the fact that the amount of the loss reported on the election statement was incorrect. However, the Taxpayer may file an amended return together with an election and agreement reporting the correct amount of the loss for Entity B for tax year X.

PLR-100138-04

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosures:

Schedule A

Copy for 6110 purposes

SCHEDULE A

LEGEND

AC = Indicates the tax year for which relief is requested to file the annual certification described in § 1.1503-2(g)(2)(i).