

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-107400-00

Date:

August 16, 2000

LEGEND

- Taxpayer =
- Parent =
- Tax Advisors =
- Country B =
- Date A =

Dear :

This replies to a letter dated February 7, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 8279, Election To Be Treated as a FSC or as a Small FSC, pursuant to Temp. Treas. Reg. § 1.921-1T(b)(1), Q&A 1, effective for the tax year beginning on Date A. 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.

The representatives of Parent and Parent's Tax Advisors had various discussions regarding the administrative requirements of establishing and maintaining a FSC. The Tax Advisors informed Parent's representatives about the necessity to file an election to establish a foreign corporation as a FSC within the prescribed period. Both Tax Advisors and Parent assumed that the office of Tax Advisors in Country B would file the election. Later, it was discovered that the election had not been filed by the Country B office of Tax Advisors. The IRS has not discovered Taxpayer's failure to timely file Form 8279, effective for the tax year beginning on Date A..

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

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§ 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, §1.921-1T(b)(1), Q&A 1, fixes the time to elect treatment as an FSC or small FSC. 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 30 days from the date of this ruling letter to file Form 8279 effective for the tax year beginning on Date A. The granting of an extension of time to file Form 8279 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.

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. Further, no opinion is expressed as to whether the Taxpayer qualifies as a FSC or small FSC under U.S. law.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to your authorized representative.

Sincerely,
/s/ Allen Goldstein, Reviewer
Office of the Associate Chief Counsel (International)