

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-117869-00

Date:

June 14, 2001

In re:

LEGEND

Taxpayer =

Subsidiaries 1, 2, 3, 4, 5 =

Date A, B, C, D =

Countries N, O, P, Q,
R, S, T =

Individuals A, B, C =

Dear :

This replies to a letter dated September 14, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement provided under § 1.1503-2(g)(2)(i) as required by § 1.1503-2(g)(2)(iv)(B)(2)(iii) for the tax years ended on Date A, B and C; to file the agreement provided under § 1.1503-2(g)(2)(i) for the tax year ended on Date D; and to file the annual certification required under § 1.1503-2(g)(2)(vi) for the tax year ended on Date D. Additional information was submitted in letters dated April 6, 2001, and May 17, 2001. 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.

Following a nontaxable transaction on Date A, Taxpayer became a publicly held company and the common parent of a consolidated group that included Subsidiaries 1 through 5. Each of the Subsidiaries generated losses for the tax years indicated

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below, and these losses were included in the consolidated tax returns of the former parent of Subsidiaries. Subsidiary 1 through 4 are each a dual resident corporation as defined in § 1.1503-2(c)(2). Subsidiary 5 does business in Countries R, S and T in branch form, and each branch constitutes a “separate unit” within the meaning of § 1.1503-2(c)(3) and are not hybrid entity separate units within the meaning of § 1.1503-2(c)(4).

Subsidiary 1 generated losses from its operations in Country N for the tax years ended on Dates B and C, and for the short period ended on Date A.

Subsidiary 2 generated losses from its operations in Country O for the tax year ended on Date C, and for the short period ended on Date A.

Subsidiary 3 generated losses from its operations in Country P for the tax year ended on Date C, and for the short period ended on Date A.

Subsidiary 4 generated losses from its operations in Country Q for the short period ended on Date A.

Subsidiary 5 generated losses for the tax year ended on Date C with respect to its branch located in Country R.

Date D was after Date A. For the short period ended on Date D, Subsidiaries 2 and 3 generated losses from their operations in Countries O and P, respectively, and Subsidiary 5 generated losses from its branches in Countries R, S and T.

Individual A is the vice president of tax and financial planning for Taxpayer. Individual B is the director of international tax for Taxpayer. Individual C is the outside counsel for Taxpayer. The affidavits from these Individuals describe the circumstances surrounding the failure to timely file the agreements, and establish that Taxpayer relied upon these Individuals to timely file the agreements. The I.R.S. has not discovered or raised any issue concerning the dual consolidated losses or the need to file any agreements under § 1.1503-2(g)(2).

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. § 301.9100-1(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.

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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, § 1.1503-2(g)(2) fixes the time to file the agreement and annual certification. 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 the agreement provided under § 1.1503-2(g)(2)(i) as required by § 1.1503-2(g)(2)(iv)(B)(2)(iii) for the tax years ended on Date A, B and C; to file the agreement provided under § 1.1503-2(g)(2)(i) for the tax year ended on Date D; and to file the annual certification required under § 1.1503-2(g)(2)(vi) for the tax year ended on Date D. The granting of an extension of time to file the agreements and annual certifications is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications. § 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 the agreements and annual certifications.

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.

Sincerely,

/s/ Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)