

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-125782-01
Date:
September 20, 2002

Legend:

Parent =

D1 =

Transaction =

Individual A =

Date A =

X =

Dear _____ :

This responds to the letter dated March 25, 2002, and prior correspondence, submitted on behalf of Parent requesting an extension of time pursuant to §301.9100-3(a) of the Procedure and Administration Regulations to comply with the requirements of §1.367(a)-3T(g)(7) with respect to the Transaction that occurred on D1 in the tax year ended on Date A.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the ruling requests. Verification of the information, representations, and other data may be required as part of the examination process.

On D1, Transaction was consummated during a period when a gain recognition agreement ("original GRA") was in force. Later, Parent discovered that it should have made certain disclosures regarding Transaction and entered into a new GRA, in order to maintain its original election not to recognize gain.

Individual A is the Vice President-Tax of Parent and was responsible for the preparation and filing of the federal income tax return of Parent for the tax year ended on Date A, and all applicable tax elections. The affidavit of Individual A and the facts submitted describe the circumstances that led to the failure to comply with the requirements under §1.367(a)-3T(g)(7) with respect to the Transaction, and indicate that Parent relied upon Individual A to comply with the requirements.

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 requirements prescribed in §1.367(a)-3T(g)(7) are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Parent an extension of time, provided that Parent satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Parent satisfies § 301.9100-3(a). Accordingly, Parent is granted an extension of time until 30 days from the date of this ruling letter to comply with the requirements of § 1.367(a)-3T(g)(7) with respect to the Transaction that occurred on D1 in the tax year ended on Date A.

The granting of an extension of time is not a determination that Parent is otherwise eligible to comply with the requirements of § 1.367(a)-3T(g)(7). § 301.9100-1(a). A copy of this ruling letter should be associated with the disclosures.

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 expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed concerning the tax consequences of any difference between the manner that the transactions in X were described in X and the manner in which the various transactions were executed.

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

Sincerely,

Michael H. Frankel
Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel, (International)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes