

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **200441020**

Release Date: 10/8/04

Index Number: 911.11-03

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL:B02  
PLR-150496-02

Date:  
June 15, 2004

DO: TY:

LEGEND

Taxpayer =

Year X =

Year Y =

Dear :

This is in response to a letter dated June 27, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301-9100-3 to elect the foreign earned income exclusion under section 911 of the Internal Revenue Code ("Code") for Year X.

The ruling contained in this letter is based upon information and representations submitted by the Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Taxpayer has lived and worked abroad for most of his adult life. However, Taxpayer failed to timely file his federal income tax return for Year X and did not file that return until Year Y. Further, Taxpayer has not provided any documentation nor affidavit explaining his failure to timely file.

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 section 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 section 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.

Based on the facts and circumstances of this case, we conclude that Taxpayer does not satisfy Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer's request for an extension of time under Treas. Reg. § 301-9100-3 to elect the foreign earned income exclusion under section 911 of the Code for Year X is denied.

This ruling is directed only to the taxpayer who requested it. Section 6110(j)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

Allen Goldstein  
Reviewer  
Office of the Associate Chief  
Counsel (International)