

Internal Revenue Service

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Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B04 – PLR-171124-03

Date:
March 10, 2005

In Re:

LEGEND

Taxpayer =

Subsidiary One =

Subsidiary Two =

Subsidiary Three =

Subsidiary Four =

Subsidiary Five =

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Country X =

Date A =

Date B =

Date C =

Business A =

Individual A =

Individual B =

Accounting Firm =

Dear :

This replies to a letter dated December 5, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to attach to Taxpayer's U.S. income tax return for the tax year ended on Date A the documentation required under Treas. Reg. § 1.1503-2(g)(2)(iii)(B) to rebut the presumption that the transaction that occurred during the tax year ending on Date A was a triggering event within the meaning of Treas. Reg. § 1.1503-2(g)(2)(iii)(A)(5). The information submitted for consideration is substantially as set forth below.

The rulings contained in this letter are based upon information and representations submitted by 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 rulings. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Taxpayer, a domestic corporation, was the common parent of an affiliated group of corporations that, until Date C, filed a U.S. consolidated federal income tax return pursuant to § 1502 of the Internal Revenue Code (the Code). Taxpayer owns its subsidiaries in the following order: Taxpayer owns 100 percent of Subsidiary One, Subsidiary One owns 100 percent of Subsidiary Two, Subsidiary Two owns 100 percent of Subsidiary Three, Subsidiary Three owns 100 percent of Subsidiary Four, Subsidiary Four owns 100 percent of Subsidiary Five. Taxpayer and its subsidiaries are U.S. corporations and are members of a consolidated group.

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During the tax year ending on Date A, Subsidiary Five engaged in Business A in Country X through a “separate unit” as defined under Treas. Reg. § 1.1503-2(c)(3)(i)(A). Taxpayer had previously filed elections under Treas. Reg. § 1.1503-2(g)(2)(i) to include on its U.S. consolidated federal income tax return the dual consolidated losses incurred by the separate unit in Country X for the tax year ending on Date A. Taxpayer experienced a triggering event under Treas. Reg. § 1.1503-2(g)(2)(iii)(A)(5) when all of the assets of Subsidiary Five’s separate unit were sold to an unrelated party during the tax year ending on Date A. Taxpayer should have attached documentation as required under Treas. Reg. § 1.1503-2(g)(2)(iii)(B) to its tax return for the tax year ended on Date A regarding the sale of the assets of Subsidiary Five’s separate unit.

Individual A is the Plan Administrator of Taxpayer. Individual B is a partner with Accounting Firm and is responsible for providing tax consulting services and tax compliance services relating to Taxpayer’s tax year ending on Date B. The affidavits of Individuals A and B and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer’s failure to attach the documentation required by Treas. Reg. § 1.1503-2(g)(2)(iii)(B) to its tax return for the year ended on Date A. In addition, the affidavits and facts state that Taxpayer always intended to comply with all applicable U.S. federal income tax requirements in filing its tax returns for the tax year ending on Date 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 Treas. Reg. § 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 Treas. Reg. § 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 documentation required by Treas. Reg. § 1.1503-2(g)(2)(iii)(B) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

Based solely on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of

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time until 45 days from the date of this ruling letter to attach to its U.S. income tax return for year ended on Date A the documentation required under Treas. Reg. § 1.1503-2(g)(2)(iii)(B) to rebut the presumption that the transaction that occurred during the tax year ending on Date A was a triggering event within the meaning of Treas. Reg. § 1.1503-2(g)(2)(iii)(A)(5) .

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to attach the documentation to its tax return for the tax year ended on Date A. Treas. Reg. § 301.9100-1(a). Specifically, this ruling is not a determination as to whether Taxpayer has rebutted the presumption within the meaning of Treas. Reg. § 1.1503-2(g)(2)(iii)(A). This determination will be made by the office of the industry director having examination jurisdiction over the tax return for the tax year at issue.

This ruling is directed only to the taxpayer who requested it. Code § 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 documents.

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 letter is being furnished to your authorized representative.

Sincerely,

/s/ Joseph M. Calianno

Joseph M. Calianno
Special Counsel to the Deputy Associate
Chief Counsel (International)