

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-152474-03

In Re:

Date:
June 17, 2005

LEGEND

Taxpayer =

Entity A =

Entity B =

Date A =

CPA =

Firm

Dear :

This replies to a letter dated September 2, 2003, forwarding Taxpayer's request for an extension of time under Treas. Reg. § 301.9100-3 to file the documents described in § 1.1503-2(g)(2)(iii)(B) to rebut the presumption that the disposition of the assets of Entities A and B in the fiscal year ended on Date A did not constitute triggering events under § 1.1503-2(g)(2)(iii)(A)(5). Additional information was submitted in letters dated April 14, 2005, and June 2, 2005. 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 facts state that in the fiscal year ended on Date A, the operating assets of Entities A and B were sold in a taxable, arm's length transaction to a third party that was a non-U.S. entity with no nexus to the U.S. It is also stated that none of the losses, expenses or deductions of Entities A or B carried over to the third party purchaser under applicable foreign law.

Taxpayer engaged CPA Firm to provide tax assistance with respect to the sale of these assets. After the tax return was filed for the fiscal year ended on Date A, it was discovered that Taxpayer should have filed the documents required by §1.1503-2(g)(2)(iii)(B). However, Taxpayer was not aware of this requirement, and was not informed of it by CPA Firm.

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 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 within the meaning of §301.9100-3(b), subject to the conditions set forth in §301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of §301.9100-3(c).

In the present situation, the documents described in §1.1503-2(g)(2)(iii)(B) are a regulatory election as defined in §301.9100-1(b). Therefore, the Commissioner has discretionary authority under §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief as set forth in §301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies §301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 60 days from the date of this ruling letter to file the documents described in § 1.1503-2(g)(2)(iii)(B) to rebut the presumption that the disposition of the assets of Entities A and B in the fiscal year ended on Date A did not constitute triggering events under § 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 file the documents with its tax return for the fiscal year ended on Date A. §301.9100-1(a). Specifically, this ruling letter is not a determination as to whether Taxpayer has rebutted the presumption of a triggering event on the disposition of the assets of Entities A and B in the fiscal year ended on Date 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.

A copy of this ruling letter should be associated with the documents.

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.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer and the other authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Meryl Silver
Meryl Silver
Reviewer

Enclosure
Copy for 6110 purposes

CC :