

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-157847-03

Date:
February 03, 2005

In Re:

LEGEND

- Corp A =
- Taxpayer 1 =
- Taxpayer 2 =
- Taxpayer Branch =
- Individual A =
- CPA Firm =
- Date One =
- Date Two =
- Date Three =
- Date Four =

Dear :

This replies to a letter dated October 2, 2003, in which Taxpayer 1 and Taxpayer 2 (hereinafter Taxpayer 1 and Taxpayer 2 are sometimes collectively referred to as Taxpayer) request an extension of time under Treas. Reg. § 301.9100-3 to file the following statements: (i) Taxpayer 1 requests relief to file the election and agreement described in §1.1503-2(g)(2)(i) with respect to the dual consolidated loss incurred by Branch in the tax year ended on Date One; (ii) Taxpayer 2 requests relief to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated loss incurred by Branch in the tax year ended on Date Two; and (iii) Taxpayer 2 requests relief to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date Two, with respect to the dual consolidated loss incurred by Branch in the tax year ended on Date One. Additional information was

submitted on September 17, 2004, and January 10, 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.

Corp A was a minority shareholder of Taxpayer 2 prior to Date Four, which was after Date Three. (Collectively, Taxpayer is used to refer to the Taxpayer 2 consolidated group and its predecessor group, the Taxpayer 1 consolidated group.) On Date Four, Corp A acquired all of the assets and liabilities of Taxpayer.

For the tax years ended on Dates One and Two, the in-house tax department of Taxpayer prepared the tax returns for those years. Individual A was the vice president/treasurer of Taxpayer, and was in charge of the tax department. Taxpayer relied upon Individual A to file all the required statements which are the subject of this request for relief.

While CPA Firm was preparing Taxpayer's income tax return for the tax year ended on Date Three, including the statements relating to the dual consolidated losses associated with Branch, it was discovered that such statements were not included in any prior tax return of Taxpayer.

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 election and agreement described in § 1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) are regulatory elections 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, (i) Taxpayer 1 is granted an extension of time of 45 days from the date of this ruling letter to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated loss incurred by Branch in the tax year ended on Date One; (ii) Taxpayer 2 is granted an extension of time of 45 days from the date of this ruling letter to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated loss incurred by Branch in the tax year ended on Date Two; and (iii) Taxpayer 2 is granted an extension of time of 45 days from the date of this ruling letter to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date Two, with respect to the dual consolidated loss incurred by Branch in the tax year ended on Date One.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and the annual certification. § 301.9100-1(a).

A copy of this ruling letter should be associated with the elections and agreements, and the annual certification.

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.

This ruling letter corrects certain information set forth in the ruling letter issued to Taxpayer on December 23, 2004. Accordingly, this ruling letter nullifies the ruling letter issued to Taxpayer on December 23, 2004.

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure:

Copy for 6110 purposes