

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

In re:

Refer Reply To:

CC:INTL – PLR-168293-02

Date:

October 06, 2003

LEGEND

Taxpayer =

Foreign country =

Foreign city =

Date One =

Individual A =

CPA Firm =

Dear :

This replies to a letter dated November 27, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to submit a ruling request under § 877 as provided by Section IV of Notice 97-19, as modified by Notice 98-34. 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 taxpayer and accompanied by a penalty of perjury statement executed by taxpayer. 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.

In re: PLR-168293-02

Taxpayer is a citizen and resident of Foreign country. Taxpayer surrendered his green card at the American Consulate in Foreign City on Date One.

Individual A was employed by CPA Firm during the tax year at issue, and never worked with a client to whom § 877 applied. The affidavit of Individual A and the facts submitted indicate that Individual A was not aware of the existence of Notice 97-19 and the relief available under the Notice when advising Taxpayer about § 877 at the time Taxpayer was surrendering his green card.

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 standards 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, Section IV of Notice 97-19 fixes the time for an individual to submit a ruling request under I.R.C. § 877. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this ruling letter to submit a ruling request under § 877 as provided by Section IV of Notice 97-19, as modified by Notice 98-34.

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. Specifically, no opinion is expressed as to the tax consequences under I.R.C. § 877.

In re: PLR-168293-02

A copy of this ruling letter should be associated with the ruling request filed pursuant to Notice 97-19.

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.

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure
Copy for 6110 purposes