

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-157375-02

Date:
October 22, 2003

In Re:

LEGEND

Taxpayer =

Corp X =

Date A =

Date B =

Year One =

Individual A =

Individual B =

Individual C =

Dear :

This replies to a letter dated October 16, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 8848, Consent To Extend the Time to Assess the Branch Profits Tax Under Regulations Sections 1.884-2(a) and

In re: PLR-157375-02

(c), for the tax year ended on Date A. Additional information was submitted in a letter dated May 29, 2003. 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.

In July of Year One, Corp X, the sole shareholder of Taxpayer, irrevocably resolved to liquidate and dissolve Taxpayer. Later that year, Taxpayer sold all its U.S. assets.

Individual A is the attorney for Taxpayer and advised Taxpayer on the procedure to follow under § 1.884-2T(a)(1) to avoid the imposition of the branch profits tax. Individual B is a certified public accountant with a CPA Firm and prepared Taxpayer's tax return for Year One. Individual A reviewed the tax return. Neither Individual A nor Individual B informed Taxpayer of the requirement to file Form 8848 with the tax return for Year One.

Individual C is a shareholder of Corp X. Individual C manages Taxpayer's affairs, including the filing of tax returns and taking actions on tax matters. The affidavit of Individual C states that neither Taxpayer nor any related corporation has used, or has any plans to use, directly or indirectly, any of the U.S. assets of Taxpayer, or property attributable thereto or to effectively connected earnings and profits earned by Taxpayer in the year of complete termination, in the conduct of a trade or business in the United States at any time during the three year period following Date B, the close of the termination year.

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 the evidence (including affidavits described in

In re: PLR-157375-02

§ 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, § 1.884-2(a)(2)(ii) fixes the time to file Form 8848. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayers an extension of time, provided that Taxpayers satisfy the standards set forth in § 301.9100-3(a).

Based solely on the facts and the representations submitted, we conclude that Taxpayers satisfy § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this ruling letter to file Form 8848 for the tax year ended on Date A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file Form 8848. § 301.9100-1(a).

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. In particular, no opinion is expressed as to whether Taxpayers have satisfied the requirement for complete termination under §1.884-2T(a)(2)(i).

A copy of this ruling letter should be associated with Taxpayer's tax return for Year One.

This ruling letter 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 ruling letter is being sent to Taxpayer and the other authorized representative.

Sincerely,

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

Enclosure
Copy for 6110 purposes