

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:  
CC:INTL:PLR-118173-99  
Date:  
May 16, 2000

**LEGEND**

- Taxpayer =
- Parent =
- CPA Firm =
- Country Y =
- Date A =
- Date B =

Dear :

This replies to a letter dated November 11, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 8279, Election To Be Treated as a FSC or as a Small FSC, pursuant to Temp. Treas. Reg. § 1.921-1T(b)(1), Q&A 1, effective for the tax year beginning on Date A. 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.

CPA Firm was authorized by Parent to establish a FSC in Country Y. The election to be treated as a FSC was required to be filed on Form 8279 on or before Date B. After Date B, it was discovered that Form 8279 had not been filed. The failure to file Form 8279 was due to a misunderstanding between CPA Firm and Taxpayer as to which party was responsible for preparing and filing Form 8279. The failure to timely file Form 8279 has not been discovered by the IRS.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner may grant a taxpayer a

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reasonable extension of time to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I under the standards set forth in § 301.9100-3.

Treas. Reg. § 301.9100 -1(b) 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. § 301.9100-3 provides standards for extensions of time for making regulatory elections.

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, §1.921-1T(b)(1), Q&A 1, fixes the time to elect treatment as an FSC or small FSC. Thus, the Commissioner has discretionary authority pursuant to § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

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 30 days from the date of this ruling letter to file Form 8279 effective for the tax year beginning on Date A.

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 letter is being sent to your authorized representative.

Sincerely,  
/s/ Allen Goldstein, Reviewer

Office of the Associate Chief Counsel (International)