

**Internal Revenue Service**

Department of the Treasury

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**LEGEND**

- Taxpayer =
- Subsidiary #1, #2, #3, #4, #5 ("Subsidiaries") =
- Country A, B, C, D, E =
- Tax years in issue =
- Tax years =

Dear :

This replies to a letter dated September 29, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement and certifications described in § 1.1503-2(g)(2) for the losses incurred by Subsidiaries for the tax years in issue. 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.

Taxpayer is the common parent of a consolidated group that filed consolidated Federal income tax returns for each of the tax years in issue. During part or all of the tax years in issue, Subsidiaries were members of Taxpayer's consolidated group.

Subsidiary #1 does business in Country A, and reported losses from its Country A operations in tax years #2, #3, and #4, which losses have not been used to offset the income of any other person under the income tax laws of Country A or any other

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foreign country.

Subsidiary #2 does business in Country B, and reported losses from its Country B operations in tax years #3 and #4, which losses have not been used to offset the income of any other person under the income tax laws of Country B or any other foreign country.

Subsidiary #3 does business in Country C, and reported losses from its Country C operations in tax years #3 and #4, which losses have not been used to offset the income of any other person under the income tax laws of Country C or any other foreign country.

Subsidiary #4 does business in Country D in branch form. The branch of Subsidiary #4 constitutes a "separate unit" within the meaning of § 1.1503-2(c)(3). Subsidiary's branch reported losses from its Country D operations in tax year #3, which losses have not been used to offset the income of any other person under the income tax laws of Country D or any other foreign country.

Subsidiary #5 does business in Countries E in branch form. The branches of Subsidiary #5 constitute "a separate unit" within the meaning of § 1.1503-2(c)(3). Subsidiary #5's branches reported losses from its Country E operations in tax years #1 and #2, which losses have not been used to offset the income of any other person under the income tax laws of Countries E or any other foreign country.

It is stated that Subsidiaries #1, #2, and #3 are dual resident corporations as defined in § 1.1503-2(c)(2).

Taxpayer is subject to the Coordinated Examination Program, and the I.R.S. has not advised Taxpayer that it intends to challenge the deductibility of the losses of the Subsidiaries as dual consolidated losses or otherwise raised any issue with respect to the losses in question, including the necessity to file any agreements or certifications under § 1.1503-2(g)(2).

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

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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, § 1.1503-2(g)(2) fixes the time to file the agreement and certifications. 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 30 days from the date of this ruling letter to file the agreement and certifications described in § 1.1503-2(g)(2) for the losses incurred by Subsidiaries for the tax years in issue. The granting of an extension of time to file the agreement and certifications is not a determination that Taxpayer is otherwise eligible to make the election. § 301.9100-1(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 Taxpayer.

Sincerely,

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