

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-116664-00

Date:

November 20, 2000

LEGEND

- Taxpayer =
- Domestic Owner (1), (2), (3) =
- Corporation X =
- Foreign Partnerships =
- Partnerships A, B =
- Year 1,2,3,4,5 =
- Individual A =

Dear :

This replies to a letter dated August 22, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2) with respect to the losses of Domestic Owners (2) and (3) for Year (3), and the loss of Domestic Owner (1) for Year (4); and to file the annual certifications described in § 1.1503-2(g)(2)(vi)(B) for Domestic Owners (2) and (3) for Years (4) and (5), and for Domestic Owner (1) for Year (5). 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.

During Years (1) through (5), Individual A was a manager in the Tax Department of Corporation X. His responsibilities in that capacity included preparation of the dual

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consolidated loss elections and certifications provided for under § 1.1503-2(g)(2). Corporation X owned certain subsidiaries (“Domestic Owners”) that held direct or indirect interests in Foreign Partnerships, including Partnerships A and B.

For various reasons, Individual A did not believe that the losses Partnership (B) allocated to Domestic Owners (2) and (3) in Year (3) were dual consolidated losses. Similarly, Individual A did not believe that the loss Partnership (A) allocated to Domestic Owner (1) in Year (4) was a dual consolidated loss. Accordingly, Individual A did not file elections under § 1.1503-2(g)(2) with respect to either the Year (3) losses or the Year (4) loss. Later, it was determined that the losses for Years (3) and (4) were dual consolidated losses. In addition, with respect to these losses, Corporation X should have filed the annual certifications required by § 1.1503-2(g)(2)(vi)(B) for Years (4) and (5).

Treas. Reg. § 301.9100-1(c) provides that the Commissioner may grant a taxpayer a reasonable extension of time under the rules set for 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 -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, § 1.1503-2(g)(2) fixes the time to file the agreement and certification. 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 described in § 1.1503-2(g)(2) with respect to the losses of Domestic Owners (2) and (3) for Year (3), and the loss of Domestic Owner (1) for Year (4); and to file the annual certifications described in § 1.1503-2(g)(2)(vi)(B) for Domestic Owners (2) and (3) for Years (4) and (5), and for Domestic Owner (1) for Year (5). The granting of an extension of time to file the agreement and certification is not a determination that Taxpayer is otherwise eligible to

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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.

Sincerely,

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