

**Internal Revenue Service**

Department of the Treasury

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**CC:INTL:PLR-110767-00**  
Date:  
February 7, 2001

**LEGEND**

Taxpayer =  
Entity =  
Outside Counsel =  
Tax Years Ended X and Y =

Dear :

This replies to a letter dated May 23, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement required under § 1.1503-2(g)(2)(i) with respect to losses incurred by Entity for the Tax Years Ended X and Y, and to file the annual certification required under § 1.1503-2(g)(2)(vi) with respect to the losses incurred in Tax Year Ended X. Additional information was received by this Office on January 31, 2001. 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 indirectly owned Entity for Tax Years Ended X and Y. Entity incurred losses in both Tax Years Ended X and Y, and these losses were taken into account in computing Taxpayer's consolidated taxable income. It is stated that these losses were dual consolidated losses for U.S. tax purposes.

In early 2000, Taxpayer was acquired by one of its competitors. As a result of the due diligence performed by the acquiring corporation, it was discovered that the requirements of § 1.1503-2(g)(2)(i) and (vi) were not satisfied for Tax Years Ended X and Y. Taxpayer relied on Outside Counsel to make the proper tax filings with respect to § 1.1503-2(g)(2)(i) and (vi), but Outside Counsel failed to make these tax filings due to an inadvertent oversight. Taxpayer is applying for relief before the failure to file the elections and annual certification is discovered by the IRS.

In re: PLR-110767-00

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. § 301.9100-1(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 § 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 election, agreement and annual 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 election and agreement required under § 1.1503-2(g)(2)(i) with respect to losses incurred by Entity for the Tax Years Ended X and Y, and to file the annual certification required under § 1.1503-2(g)(2)(vi) with respect to the losses incurred in Tax Year Ended X. The granting of an extension of time to file the elections, agreements, and annual certification is not a determination that Taxpayer is otherwise eligible to file the elections and annual certification. § 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 is expressed regarding the application of any section of the Code or regulations other than the above rulings which you have specifically requested. A copy of this ruling letter should be attached to the elections and annual certification.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representatives.

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