

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:  
CC:INTL:PLR-159547-01  
Date:  
April 16, 2002

**LEGEND**

Taxpayer =

Entity =

FYE A, B, C =

Individual A =

CPA Firm =

Dear :

This replies to a letter dated October 26, 2001, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 with respect to the following: (i) to file with its tax return for the tax year ended on FYE A the election and agreement required by § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity in the tax year ended on FYE A; (ii) to file with its tax return for the tax year ended on FYE B the election and agreement required by § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity in the tax year ended on FYE B, and to file the annual certification required by § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entity in the tax year ended on FYE A; and (iii) to file with its tax return for the tax year ended on FYE C annual certifications required by § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entity in tax years ended on FYE A and FYE B. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations

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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.

Individual A is a senior tax manager for CPA Firm and was responsible for overseeing the professional staff charged with preparing the federal income tax returns that were filed by Taxpayer and its subsidiaries for the tax periods ending on FYE A, FYE B and FYE C.

The affidavit of Individual A describes the circumstances surrounding the conclusions that the losses incurred by Entity would not constitute dual consolidated losses. Therefore, the professional staff at CPA Firm did not prepare the dual consolidated loss elections and annual certifications described in § 1.1503-2(g)(2) for FYE A and FYE B. Afterwards, it was learned that election agreements should have been filed for those tax years, including annual certifications.

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 § 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 an agreement and an 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 with respect to the following: (i) to file with its tax return for the tax year ended on FYE A the election and agreement required by § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity in the tax year ended on FYE A; (ii) to file with its tax return for the tax year ended on FYE B the election and agreement required by § 1.1503-2(g)(2)(i) with respect to the dual

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consolidated losses incurred by Entity in the tax year ended on FYE B, and to file the annual certification required by § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entity in the tax year ended on FYE A; and (iii) to file with its tax return for the tax year ended on FYE C annual certifications required by § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entity in tax years ended on FYE A and FYE B.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications. § 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.

A copy of this ruling letter should be associated with the agreements and annual certifications.

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 representatives.

Sincerely,

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