

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-129567-01

Date:

May 7, 2002

LEGEND

Taxpayer =

Corp T =

Individuals A, B =

CPA Firm =

Tax Years 1, 2, 3, 4, 5, 6, 7, 8 =

X elections =

Y annual certifications =

Year X =

Dear :

This replies to a letter dated March 23, 2001, 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)(i) numbering X elections, and the annual certification described in § 1.1503-2(g)(2)(vi)(B) numbering Y annual certifications for the entities and tax years listed on Exhibit A, which is attached to and is part of this ruling letter. Additional information was submitted in a letter dated May 7, 2001, and April 19, 2002. The information submitted for consideration is substantially as set forth below.

The rulings contained in this letter are 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.

In re: PLR-129567-01

In tax year 7, Taxpayer acquired Corp T in a transaction intended to qualify as a tax-free reorganization within the meaning of IRC § 368(a).

During tax years 1 through 7, Individual A was the Assistant Vice President of Corp T, and had primary responsibility for Corp T's compliance with applicable U.S. federal income tax laws for each of Corp T's international investments. This responsibility included ensuring that all elections and certifications were timely and properly made.

Individual B is a partner in CPA Firm and is responsible for preparing clients' income tax returns and in assisting clients on a wide range of tax matters. Corp T engaged CPA Firm to prepare the consolidated corporate income tax return of Corp T for tax years 2 through 7, including the review of Corp T's elections and disclosures.

In late August of Year X, which was after tax year 7, during the course of gathering information for the preparation of a request for a closing agreement, Taxpayer discovered that while Corp T had made certifications on the current year dual consolidated losses for tax years 1 through 7, Corp T had inadvertently failed to list and make annual certifications for prior year dual consolidated losses for tax years 2 through 7. The affidavits of Individuals A and B and the facts submitted detail the circumstances surrounding the failure to file the election agreements and the annual certifications for the entities and tax years listed on Exhibit A. The IRS has not discovered the failure to make the elections and annual certifications.

Treas. Reg. § 301.9100 -1(b) defines the term election to include an application for relief in respect of tax (but does not include an application for an extension of time for filing a return under § 6081), and 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)(i) fixes the time to file an agreement, and § 1.1503-2(g)(2)(vi) fixes the time to file 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).

In re: PLR-129567-01

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)(i) numbering X agreements, and the annual certification described in § 1.1503-2(g)(2)(vi)(B) numbering Y annual certifications for the entities and tax years listed on Exhibit A, which is attached to and is part of this ruling letter.

As provided in § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications.

Nothing in this ruling letter is to be construed as confirming the accuracy of the information you have furnished and this is specifically the case regarding the information listed on Exhibit A. As previously stated, verification of that information may be required as part of the audit process.

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 ruling letter is being furnished to your authorized representative.

Sincerely,

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

Attachment
Exhibit A

