

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-164974-01

Date:

February 3, 2003

LEGEND

- Taxpayer =
- Entity A =
- Entity B =
- Individual A =

Dear :

This replies to your letter dated October 25, 2001, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the agreement provided under § 1.1503-2(g)(2)(i), and to file the annual certification provided under § 1.1503-2(g)(2)(vi)(B) in accordance with the schedule set forth in Exhibit A, which is attached and is made a part of this ruling letter. Additional information was submitted in a letter dated August 14, 2002. 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.

Individual A is an officer of Taxpayer. The penalty of perjury statement of Individual A and the facts submitted describe the circumstances surrounding the failure to file the agreements and the annual certifications. The facts indicate that Taxpayer relied upon its director of tax who determined that the losses of Entity A and Entity B were not dual

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consolidated losses due to an exception in the regulations. As the result of a later inquiry by the then newly hired manager of international tax, it was determined that the losses should be considered dual consolidated losses.

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 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, the agreements and annual certifications are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules 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 provided under § 1.1503-2(g)(2)(i), and to file the annual certification provided under § 1.1503-2(g)(2)(vi)(B) in accordance with the schedule set forth in Exhibit A.

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

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.

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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,

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

Attachment
Exhibit A

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“EXHIBIT A”

An extension of time has been requested to file the election and agreement provided under § 1.1503-2(g)(2)(i) with respect to Entity A and Entity B for the tax years indicated below.				
For the Tax Years Ended:				
		Not requested	Not requested	Requested
Entity B	Requested			Requested

An extension of time has been requested to file the annual certification provided under § 1.1503-2(g)(2)(vi)(B) with respect to Entity B for the tax years indicated below:			
For the Tax Years Ended			
For the Loss Years			
For the Loss Years	- 0 -		
For the Loss Years	- 0 -	- 0 -	