

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
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Telephone Number:

Refer Reply To:
CC:INTL-PLR-138909-02

Date:
September 02, 2003

LEGEND

Taxpayer =
Corp A =
Entity A =
Entity B =
Date 1, 2 =
Individual A =
Individual B =

Dear :

This replies to a letter dated July 2, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the following: (a) an election and agreement under § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity A in the tax year ended on Date 1; (b) elections and agreements under § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity B in the tax years ended on Dates 1 and 2; and (c) an annual certification under § 1.1503-2(g)(2)(vi) for the tax year ended on Date 2 with respect to the dual consolidated losses incurred by Entity B in the tax year ended on Date 1. 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

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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 the tax years at issue, Individual A was an officer of Taxpayer and was responsible for overseeing and approving the filing of Taxpayer's consolidated tax return, which included Corp A and the entities held by Corp A. Corp A indirectly owned Entity A and Entity B. Individual B was the associate director of taxes for Corp A. In that capacity, Individual B acted on behalf of both Corp A and Taxpayer with respect to the U.S. tax information reporting related to the foreign entities within the consolidated group.

Taxpayer, as common parent, delegated to Corp A the primary responsibility for all dual consolidated loss reporting with regard to the foreign entities. In addition, Taxpayer and Corp A personnel were responsible for ensuring this information was included in the consolidated tax return of Taxpayer.

The affidavits of Individual A and Individual B and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer's failure to file the elections and agreements and the annual certification. Taxpayer is requesting relief before the IRS has discovered Taxpayer's failure to file the elections and agreements and the annual certification.

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, the election and agreement, and the annual certification are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has

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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 information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this letter to file the following: (a) an election and agreement under § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity A in the tax year ended on Date 1; (b) elections and agreements under § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Entity B in the tax years ended on Dates 1 and 2; and (c) an annual certification under § 1.1503-2(g)(2)(vi) for the tax year ended on Date 2 with respect to the dual consolidated losses incurred by Entity B in the tax year ended on Date 1.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and the annual certification. § 301.9100-1(a). A copy of this ruling letter should be associated with the elections and agreements, and the annual certification.

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.

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,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosure:

Copy for § 6110 purposes