

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Refer Reply To:

CC:INTL – PLR-163616-03

Date:

April 08, 2004

LEGEND

Taxpayer =
=
Branch A =
Branch B =
Date 1 =
Date 2 =
Date 3 =
Individual A =
Individual B =

Dear :

This replies to a letter dated October 30, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Branch A in the tax years ended on Dates 1, 2 and 3; and with respect to the dual consolidated losses incurred by Branch B in the tax years ended on Dates 1 and 3. 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 was the tax manager for the tax year ended on Date 1 and on Date 2. Individual B was the tax manager for the tax year ended on Date 3. The facts indicate that Individuals A and B had the responsibility to file the election agreement for the respective tax year when each held the position of tax manager. However, Individuals A and B failed to file the election agreements, despite Taxpayer's reliance upon them to make the required filings under § 1.1503-2(g)(2)(i).

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 agreement is a regulatory election within the meaning of § 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 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 45 days from the date of this ruling letter to file the election agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses incurred by Branch A in the tax years ended on Dates 1, 2 and 3; and with respect to the dual consolidated losses incurred by Branch B in the tax years ended on Dates 1 and 3.

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 election agreements.

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 election agreements.

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 is being furnished to your authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By:
Allen Goldstein
Reviewer

Attachment
Copy for 6110 purposes

Cc: