

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-125789-05

Date:
August 31, 2005

LEGEND

Taxpayer =

Entity =

Tax Year =

One

Date A =

Dear :

This replies to your representative's letter dated March 23, 2004, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to attach to its U.S. income tax return for Tax Year One, the documentation required under §1.1503-2(g)(2)(iii)(B) to rebut the presumption that the transfer of the stock of Entity on Date A within Tax Year One constituted a triggering event within the meaning of §1.1503-2(g)(2)(iii)(A)(7). Additional information was furnished on February 15, 2005. 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 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.

The facts and affidavits submitted indicate that Taxpayer's outside tax professionals did not inform Taxpayer that the transfer of the stock of Entity on Date A was a triggering

event that would result in the recapture of previously deducted dual consolidated losses incurred by Entity, or of the exceptions to a triggering event set forth in Treas. Reg. §1.1503-2(g)(2)(iv)(A) and (B). Subsequently, Taxpayer's outside tax professionals were replaced with other outside tax professionals who advised Taxpayer to file rebuttal documents as provided in §1.1503-2(g)(2)(iii)(B).

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 -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. §301.9100-3(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 provision in Treas. Reg. §1.503-2(g)(2)(iii)(B) is a regulatory election 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 information submitted, we conclude that Taxpayer satisfies Treas. Reg. §301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to attach to its U.S. income tax return for Tax Year One, the documentation required under §1.1503-2(g)(2)(iii)(B) to rebut the presumption that the transfer of the stock of Entity on Date A constituted a triggering event within the meaning of §1.1503-2(g)(2)(iii)(A)(7).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the rebuttal documents. Treas. Reg. §301.9100-1(a).

A copy of this ruling letter should be associated with the rebuttal documents.

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 representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of the Associate Chief Counsel (International)

Enclosure:

Copy for 6110 purposes

cc: