

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-160159-03

Date:
December 06, 2005

LEGEND

Taxpayer =

Individual A =

CPA Firm =

Year X =

Country A =

Country B =

Country C =

Country D =

Dear :

This replies to your representative’s letter dated September 26, 2003, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 with respect to the following elections: (1) to file the agreements and waivers described in §1.1503-2A(c)(3) and the certifications described in §1.1503-2A(d)(3); (2) to elect the provision provided under §1.1503-2(h)(2)(ii) to replace the agreements made under §1.1503-2A(c)(3) and the certifications made under §1.1503-2A(d)(3); and (3) to file the elections and agreements described in §1.1503-2(g)(2)(i) and the annual certifications described in §1.1503-2(g)(2)(vi)(B), which elections are with respect to the dual consolidated losses of the dual resident entities (“DREs”) and tax years listed on Schedule A, which is attached to and made a part of this ruling letter. Your representative submitted additional information on June 2, 2005, March 14, 2005, July 15, 2005, October 31, 2005, and November 28, 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 this 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 has been Taxpayer's manager of federal tax returns since year X. In this position, Individual A was responsible for the preparation and filing of Taxpayer's consolidated federal income tax return, including the filing of all applicable elections for many of the tax years at issue. CPA Firm has been a professional tax service provider to Taxpayer for many years.

The facts and the affidavit of Individual A describe the circumstances that prompted Individual A to review the U.S. tax treatment of the income or loss of a foreign partnership. At the time the tax returns for the years at issue were filed, Individual A had concluded that the losses reported by the partnership did not constitute dual consolidated losses ("DCLs"), as defined by Treas. Reg. §1.1503-2(c)(5)(ii)(A). Subsequently, Taxpayer and CPA Firm met to discuss Taxpayer's filing position with respect to DCLs, which involved a discussion of the DCL regulations and the Service's interpretation of those regulations. The discussion led to a comprehensive review of Taxpayer's DCL position for the tax years at issue. Based upon the results of that review, it was determined that Taxpayer should have filed the elections with respect to the DCLs of the DREs and tax years listed on Schedule A.

Taxpayer has made representations with respect to the mirror legislation of Countries A, B, C, and D, which are attached as Schedule B, and made a part of this ruling letter.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the elections with respect to the DCLs of the DREs and tax years listed on Schedule A.

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 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 within the meaning of §301.9100-3(b), subject to the

conditions set forth in §301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of §301.9100-3(c).

In the present situation, the agreements, waivers, and certifications to be filed under Treas. Reg. §1.1503-2A, and the elections and agreements and annual certifications to be filed under Treas. Reg. §1.1503-2 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 standards for relief as set forth in §301.9100-3.

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 with respect to the following elections: (1) to file the agreements and waivers described in §1.1503-2A(c)(3) and the certifications described in §1.1503-2A(d)(3); (2) to elect the provision provided under §1.1503-2(h)(2)(ii) to replace the agreements made under §1.1503-2A(c)(3) and the certifications made under §1.1503-2A(d)(3); and (3) to file the elections and agreements described in §1.1503-2(g)(2)(i) and the annual certifications described in §1.1503-2(g)(2)(vi)(B), which elections are with respect to the DCLs of the DREs and tax years listed on Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections with respect to the DCLs of the DREs and tax years listed on Schedule A. Treas. Reg. §301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file the election agreement pursuant to §1.1503-2(c)(15)(iv).

A copy of this ruling letter should be associated with the elections with respect to the DCLs of the DREs and tax years listed on Schedule A.

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 Associate Chief Counsel (International)

Enclosures (3):

Schedule A

Schedule B

Copy for 6110 purposes

Cc:

SCHEDULE B

The income tax laws of _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

SCHEDULE B

The income tax laws of _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

The income tax laws of _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

The income tax laws of _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

The income tax laws of the _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

The income tax laws of the _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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SCHEDULE B

The income tax laws of _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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The income tax laws of _____ do not deny the use of losses, expenses, or deductions of _____ to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.