

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-138003-04

Date:
November 08, 2005

LEGEND

- Taxpayer =
- DE =
- Tax Year One =
- Tax Year Two =
- Tax Year Three =
- Individual A =
- CPA Firm =
- Foreign Country =
- X

Dear :

This replies to your representative’s letter dated July 12, 2004, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file with Taxpayer’s consolidated federal income tax return for Tax Year Two the election and agreement described in §1.1503-2(g)(2)(i) (the “(g)(2)(i) election”) with respect to the dual consolidated loss (“DCL”) incurred by DE in Tax Year Two, together with the annual certification described in §1.1503-2(g)(2)(vi)(B) with respect to the DCL incurred by DE in Tax Year One. Additional information was submitted in a letter dated October 24, 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.

DE elected to be treated as a disregarded entity under Treas. Reg. §301.7701-3(a). Accordingly, DE is a hybrid entity separate unit under §1.1503-2(c)(4). DE incurred DCLs as defined in §1.1503-2(c)(5) in Tax Years One and Two which Taxpayer used to offset its income on its consolidated federal income tax return for Tax Years One and Two.

Individual A is a partner in CPA Firm. CPA Firm prepared the consolidated return of Taxpayer for Tax Year Two.

During the process of gathering tax return information and preparing Taxpayer's consolidated federal income return for Tax Year Three, Individual A discovered that the (g)(2)(i) election for the DCL incurred in Tax Year Two was inadvertently not attached to that year's consolidated return. Additionally, the annual certification of the Tax Year One DCL was likewise inadvertently not attached to the consolidated return for Tax Year Two.

Taxpayer represents that the income tax laws of Foreign Country X do not deny the use of losses, expenses, or deductions of DE to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on their worldwide income or on a residence basis.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the election and agreement with respect to the DCL of DE for Tax Year Two and the annual certification with respect to the DCL of DE for Tax Year One.

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 election and agreement, and the annual certification described in Treas. Reg. §1.1503-2(g)(2)(i) and (vi)(B), respectively, 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 to file with its consolidated federal income tax return for Tax Year Two the election and agreement described in §1.1503-2(g)(2)(i) with respect to the DCL incurred by DE in Tax Year Two, together with the annual certification described in §1.1503-2(g)(2)(vi)(B) with respect to the DCL incurred by DE in Tax Year One.

The granting of this extension of time is not a determination that Taxpayer is otherwise eligible to file the (g)(2)(i) election and the annual certification. 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 an election agreement pursuant to §1.1503-2(c)(15)(iv).

A copy of this ruling letter should be associated with the (g)(2)(i) election 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 representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of Associate Chief Counsel (International)

Enclosure:

Copy for 6110 purposes

PLR-138003-04

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Cc: