

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200626020**

Release Date: 6/30/2006

Index Number: 9100.22-00, 1503.04-04

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, ID No.

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Refer Reply To:

CC: INTL – PLR-153089-04

Date: March 16, 2006

Taxpayer =

Entity =

CPA Firm =

Year 1 =

Year 2 =

aa =

bb =

Dear

This is in response to a letter dated September 30, 2004, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) (elections) and an annual certification under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) (certification) with respect to dual consolidated losses attributable to the interest of Entity. The information submitted for consideration is substantially as set forth below.

In re: PLR-153089-04

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.

The interest in Entity is a hybrid entity separate unit as described in §1.1503-2(c)(4). Dual consolidated losses of Amount aa for Year 1 and Amount bb for Year 2 are attributable to the interest in Entity. An election was not filed for the Year 1 loss with Taxpayer's federal tax return for Year 1, and an election was not filed for the Year 2 loss with Taxpayer's tax return for Year 2. In addition, a certification with respect to the Year 1 loss was not filed with Taxpayer's tax return for Year 2.

Taxpayer engaged CPA Firm to prepare its federal income tax returns for Year 1 and Year 2. However, due to an oversight, Taxpayer's returns for Year 1 and Year 2 did not include the elections and certification required by Treas. Reg. § 1.1503-2(g)(2) with respect to Entity's losses.

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 Treas. Reg. § 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 Treas. Reg. § 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 filings described in Treas. Reg. § 1.1503-2(g)(2) are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

In re: PLR-153089-04

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 the elections and certification for the dual consolidated losses described in this letter.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreement and annual certification. Treas. Reg. § 301.9100-1(a).

A copy of this ruling letter should be associated with the election agreements and the annual certifications that are the subject of this ruling.

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 Taxpayer's authorized representatives.

Sincerely,

Robert W. Lorence
Senior Counsel
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purposes

CC: