

Internal Revenue Service

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CC:INTL:PLR-118042-00
Date:

February 26, 2001

LEGEND

Taxpayer	=
Entities	=
Individuals A, B and C	=
CPA Firm	=
Tax Years Ended X and Y	=

Dear :

This replies to a letter dated September 14, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement required under § 1.1503-2(g)(2)(i) with respect to the Tax Years Ended X and Y, and to file the annual certification required under § 1.1503-2(g)(2)(vi) with respect to the Tax Year Ended X. 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 is the Vice President - Tax for Taxpayer. Individual B is a Certified Public Accountant with CPA Firm and is the Senior Tax Manager assigned to the Taxpayer account. Individual C is the Director of International Tax for Taxpayer.

Individual A determined that with the significant cutbacks and staff turnover that occurred in the tax department during the Tax Year Ended X, the tax department needed assistance with the tax compliance function. Accordingly, CPA Firm was

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selected to advise and assist Taxpayer with both U.S. and foreign tax compliance matters.

Individual B reviewed Taxpayer's tax compliance functions in preparation for the initial meeting with Taxpayer. During the review of the dual consolidated loss election made by Taxpayer on its federal tax return for the Tax Year Ended Y, Individual B discovered that while Taxpayer made a dual consolidated loss election for its traditional dual resident companies, Taxpayer omitted an election for its partnerships and flo-thru entities. At a later meeting of Individuals B and C, they agreed that Taxpayer should have filed a dual consolidated loss election for its partnerships and flo-thru entities. Taxpayer states that the IRS has not discovered its failure to timely file the agreement and annual certification required under § 1.1503-2(g)(2) for the Tax Years Ended X and Y.

Treas. Reg. § 301.9100 -1(b) 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, § 1.1503-2(g)(2) fixes the time to file the agreement and annual certification. 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 30 days from the date of this ruling letter to file the agreement required under § 1.1503-2(g)(2)(i) with respect to the Tax Years Ended X and Y, and to file the annual certification required under § 1.1503-2(g)(2)(vi) with respect to the Tax Year Ended X. The granting of an extension of time to file the agreements and annual certifications is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications. § 301.9100-1(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.

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No ruling is expressed regarding the application of any section of the Code or regulations other than the above rulings which you have specifically requested. A copy of this ruling letter should be attached to the agreements and annual certifications.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representatives.

Sincerely,

/s/ Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)