

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-114261-01

Date:

October 9, 2001

LEGEND

Taxpayer =

Sub =

Branch =

Date 1, 2 =

CPA Firm =

Office X =

Country Y =

Dear :

This replies to a letter dated February 27, 2001, from your authorized representative, requesting an extension of time under Treas. Reg. § 301.9100-3 to allow Taxpayer to file, with respect to the dual consolidated losses incurred by Branch for the tax years ended on Dates 1 and 2, as follows: (i) a certification and agreement under § 1.1503-2A(d)(3); (ii) an election under § 1.1503-2(h)(2)(ii) to replace the certifications and agreements with elections and agreements under § 1.1503-2(g)(2); and (iii) to file the election and agreement required under § 1.1503-2(g)(2) to replace both of the certifications and agreements. 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.

In re: PLR-114261-01

Taxpayer owns Sub which operates through Branch in Country Y. Taxpayer engaged and relied on Office X of CPA Firm to prepare and file Taxpayer's consolidated tax return for the tax years ended on Dates 1 and 2, including the preparation of all ancillary attachments, forms, certifications and elections. However, Office X failed to prepare and file the certification and agreement provided under § 1.1503-2A(d)(3) for the tax years ended on Dates 1 and 2 with respect to the dual consolidated losses incurred by Branch in those years. The IRS has not discovered Taxpayer's failure to file the certifications and agreements.

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, the election statement and agreement 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 rules 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, with respect to the dual consolidated losses incurred by Branch for the tax years ended on Dates 1 and 2, as follows: (i) a certification and agreement under § 1.1503-2A(d)(3); (ii) an election under § 1.1503-2(h)(2)(ii) to replace the certifications and agreements with elections and agreements under § 1.1503-2(g)(2); and (iii) to file the election and agreement required under § 1.1503-2(g)(2) to replace both of the certifications and agreements. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the statements of elections and agreements. § 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.

In re: PLR-114261-01

A copy of this ruling letter should be associated with the statements of elections and agreements.

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,
Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)