

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-136352-01

Date:

January 22, 2002

LEGEND

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|------------------------|---|-------------------|
| Taxpayer | = | |
| Entity 1, 2, 3 | = | (1) (2) (3) |
| Date A, or A year loss | = | (A) |
| Date B, or B year loss | = | (B) |
| Date C, or C year loss | = | (C) |
| Tax Advisors | = | |

Dear :

This replies to a letter dated July 2, 2001, submitted on behalf of Taxpayer, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the agreement required under § 1.1503-2(g)(2)(i) as follows: (i) with respect to the tax year ended on Date A, the A year loss incurred by Entity 1; (ii) with respect to the tax year ended on Date B, the B year losses incurred by Entities 1 and 2; (iii) with respect to the tax year ended on Date C, the C year losses incurred by Entities 1, 2 and 3; and to file the annual certification required under § 1.1503-2(g)(2)(vi)(B) as follows: (vi) with respect to the tax year ended on Date B, the A year loss of Entity 1; (ii) with respect to the tax year ended on Date C, the A and B years losses of Entity 1, and the B year loss of Entity 2. 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,

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representations, and other data may be required as a part of the audit process.

Taxpayer engaged Tax Advisors to prepare and sign the Taxpayer's tax returns for the tax years ended on Dates A, B and C. The affidavit of Tax Advisors and the facts submitted describe the circumstances surrounding the failure to file the agreements and annual certifications as required under § 1.1503-2(g)(2). Taxpayer is applying for relief before the failure to file the agreements and annual certifications have been discovered by the Service.

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 agreements and annual certifications. 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) as follows: (i) with respect to the tax year ended on Date A, the A year loss incurred by Entity 1; (ii) with respect to the tax year ended on Date B, the B year losses incurred by Entities 1 and 2; (iii) with respect to the tax year ended on Date C, the C year losses incurred by Entities 1, 2 and 3; and to file the annual certification required under § 1.1503-2(g)(2)(vi)(B) as follows: (vi) with respect to the tax year ended on Date B, the A year loss of Entity 1; (ii) with respect to the tax year ended on Date C, the A and B years losses of Entity 1, and the B year loss of Entity 2.

The granting of an extension of time 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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A copy of this ruling letter should be associated with the agreements and annual certifications.

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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 letter is being sent to Taxpayer and the other authorized representative.

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