

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-150629-01

Date:

April 19, 2002

LEGEND

Taxpayer =

Entities =

Date A =

Date B =

CPA Firm =

Individuals A, B =

Dear :

This replies to a letter dated September 17, 2001, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2)(i) and the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses of the Entities and the respective tax years as we have listed them on "Schedule A", which we have attached and made part of this ruling letter. 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.

Individual A was employed by Taxpayer as the Director of Taxation - Mergers and Acquisitions during the tax years ended on Dates A and B. Individual B is a partner with CPA Firm and is the tax engagement partner for Taxpayer and its Subsidiaries. Individual B was responsible for the review of the US income tax return of Taxpayer for the tax years ended on Dates A and B, and all applicable tax elections.

The affidavits of Individuals A and B, and the facts submitted describe the circumstances surrounding the failure to file the election agreements and the annual certifications for the Entities and tax years listed on "Schedule A." The affidavits and facts show that Taxpayer relied upon Individuals A and B and other personnel of both the Taxpayer and the CPA Firm to file these statements. However, these individuals failed to detect the omission of these statements from the tax returns of Taxpayer when the tax returns for the tax years at issue were filed.

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)(i) fixes the time to file an agreement, and § 1.1503-2(g)(2)(vi) fixes the time to file an 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 described in § 1.1503-2(g)(2)(i) and the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses of the Entities and the respective tax years as we have listed them on "Schedule A", which, as previously stated, we have attached and made part of this ruling letter.

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As provided in § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications.

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.

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

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 representatives.

Sincerely,

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

Attachment
"Schedule A"

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“SCHEDULE A”

1.1503-2(g)(2)(i) Election and Agreement for the Tax Year Ended _____

1.1503-2(g)(2)(vi)(B) Annual Certifications

For the Tax Years Ended: _____