

Internal Revenue Service

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Date:

February 14, 2001

LEGEND

Taxpayer	=
Entity	=
Tax Years Ended #1, #2, #3	=
Tax Year Ended #4	=
Outside Accountants	=

Dear :

This replies to a letter dated September 7, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election, agreement and annual certification as described in § 1.1503-2(g)(2) for the Tax Years Ended #1, #2, and #3. 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.

During the Tax Year Ended #1, Taxpayer acquired a majority interest in Entity. Entity is a separate unit described in § 1.1503-2(c)(3)(B). Taxpayer prepares the U.S. federal consolidated income tax return and all applicable elections, agreements and statements for itself and its subsidiaries and employs its Outside Accountants to review the tax returns.

During the Tax Years Ended #1, #2, and #3, Entity incurred losses and Taxpayer deducted the losses in its U.S. income tax return. Taxpayer however inadvertently failed to include the election, agreement and certification required by § 1.1503-2(g)(2) with its tax returns as Taxpayer was unaware of the necessity to file these statements. In connection with the review of Taxpayer's tax return for Tax Year Ended #4, Outside Accountants discovered that the elections, agreements, and certifications had not been filed for the previous three years. Taxpayer is requesting relief prior to the IRS discovering the failure to file the elections, agreements. and certifications.

Treas. Reg. § 301.9100 -1(b) defines a regulatory election as an election whose due

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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) prescribes the due date for filing the election, agreement and annual certification. Therefore, the statements satisfy the definition of a regulatory election as defined in § 301.9100-1(b). Accordingly, 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 the rules set forth in § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the election, agreement and annual certification as described in § 1.1503-2(g)(2) for the Tax Years Ended #1, #2, and #3. The granting of an extension of time to file the elections, agreements and annual certifications for the Tax Years Ended #1, #2, #3 is not a determination that Taxpayer is otherwise eligible to make the elections. § 301.9100 -1(a).

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.

A copy of this ruling letter should be associated with the filing of the elections, 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.

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,

/s/ Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)