

Internal Revenue Service

Department of the Treasury

Index Number: 9100.22-00
1503.04-04

Washington, DC 20224

Number: **200032030**
Release Date: 8/11/2000

Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-118172-99
Date:
May 16, 2000

LEGEND

Taxpayer =
Entity =
Individual A =
CPA Firm =
Country Y =
Date A =
Tax Year One =

Dear :

This replies to a letter dated November 2, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement and certifications described in § 1.1503-2(g)(2) for Tax Year One. 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.

Taxpayer is the common parent of a consolidated group that filed a consolidated federal income tax return for the taxable year ended on Date A. Entity is wholly owned by Taxpayer and operates as a branch for U.S. tax purposes.

Taxpayer engaged CPA Firm to advise and assist Taxpayer with both U.S. and Country Y tax matters related to Taxpayer's entrance into the Country Y market.

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Projections of Entity's taxable income showed that Entity would have taxable income for Country Y tax purposes, but would have a loss for U.S. tax purposes for the fiscal year ending on Date A. Based on these projections, CPA Firm informed Taxpayer that the dual consolidated loss rules would not preclude the loss from being taken into account in Taxpayer's federal income tax return for Tax Year One. In addition, CPA Firm drafted a memorandum discussing the dual consolidated loss rules and election under § 1.1503-2(g)(2).

Later, Individual A, the Tax Manager with CPA Firm assigned to Taxpayer's account, became aware that Taxpayer failed to make the appropriate elections under I.R.C. § 1503 and the regulations thereunder. Individual A states that it was not clearly communicated by CPA Firm to Taxpayer through discussions or in the memorandum that the § 1.1503-2(g)(2) election and agreement would need to be filed with the federal income tax return for Tax Year One.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner may grant a taxpayer a reasonable extension of time to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I under the standards set forth in § 301.9100-3

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. § 301.9100-3 provides standards for extensions of time for making regulatory elections.

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 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 and certifications described in § 1.1503-2(g)(2) for Tax Year One. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the election.

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§ 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.

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 your authorized representatives.

Sincerely,

/s/ Allen Goldstein _____

Reviewer

Office of the Associate Chief Counsel (International)