

## Internal Revenue Service

## Department of the Treasury

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Date:

February 15, 2001

### LEGEND

Taxpayer 1	=
Taxpayer 2	=
Taxpayer 3	=
Date A	=
Field Service Advice	=
Date B	=

Dear:

This replies to letters dated March 22, 2000, and December 6, 2000, in which Taxpayer 3 requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement required by § 1.1503-2(g)(2)(iv)(B)(2)(iii) for the tax year ended on Date B. 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.

On Date A, Taxpayer 1 and Taxpayer 2 entered into a tax-free reorganization, with Taxpayer 1 changing its name to Taxpayer 3. The reorganization was a reverse acquisition within the meaning of § 1.1502-75(d)(3).

When Taxpayer 3 filed its consolidated federal income tax return for the tax year ended on Date B, it was unaware that the reverse acquisition constituted a triggering event requiring the recapture of the dual consolidated losses relating to Taxpayer 1 and its subsidiaries. Taxpayer 3 became aware of this fact when it reviewed Field Service Advice, and realized that it should have satisfied the requirements in § 1.1503-2(g)(2)(iv)(B)(2) so that the reverse acquisition would not constitute a triggering event. This request for relief is made before the failure to satisfy the requirements in § 1.1503-2(g)(2)(iv)(B)(2)(iii) is discovered by the Service.

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)(iv)B)(2)(iii) fixes the time to file the agreement. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer 3 an extension of time, provided that Taxpayer 3 satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer 3 satisfies § 301.9100-3(a). Accordingly, Taxpayer 3 is granted an extension of time until 30 days from the date of this ruling letter to file the agreement required by § 1.1503-2(g)(2)(iv)B)(2)(iii) for the tax year ended on Date B. The granting of an extension of time to file the agreement is not a determination that Taxpayer 3 is otherwise eligible to file the agreement. § 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 ruling letter is being furnished to your authorized representative.

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