

## Internal Revenue Service

Number: **201902029**  
Release Date: 1/11/2019  
9100.20-00, 1502.75-00

Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:CORP:B01  
PLR-125748-18  
Date:  
October 10, 2018

### Legend

Parent =

Corp X =

Corp Y =

Date 1 =

Date 2 =

Date 3 =

Company Official =

Tax Professional =

Dear :

This letter responds to a letter dated August 13, 2018, submitted on behalf of Parent, requesting an extension of time under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to make an election. The extension is being requested for Parent Group, as defined below, to make an election under § 1.1502-75(a)(1) of the Income Tax Regulations to file a consolidated Federal income tax return for the tax year ending on Date 3 (the “Election”). Additional information was submitted in a letter dated September 13, 2018. The material information submitted for consideration is summarized below.

Parent, an entity taxed as a corporation for Federal income tax purposes, became the common parent of a new affiliated group (“Parent Group”) as the result of its acquisition of Corp X from Corp Y on Date 2. Corp X had previously been the common parent of its own affiliated group until it was acquired by Corp Y on Date 1. Neither transaction was a reverse acquisition within the meaning of § 1.1502-75(d)(3). Parent Group intended to file a consolidated return for the tax year ending on Date 3, but for various reasons, a

valid Election (i.e. the timely filing of a consolidated return) was not made. After discovery of the missed Election, Parent submitted this request for an extension of time under § 301.9100-3 to file a valid Election. Parent Group has represented that it is not attempting to alter a return position taken for which an accuracy-related penalty has been or could be imposed under § 6662 at the time it requested relief, and the new position requires or permits the election for which relief is granted. The period of limitations on assessment under § 6501(a) has not expired for the tax year ending on Date 3 or any subsequent tax year.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

The time for filing the Election is fixed by the regulations (i.e., § 1.1502-75(a)(1)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent Group to file the Election, provided Parent acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Parent, Company Official, and Tax Professional explain the circumstances that resulted in the failure to timely file a valid election. The information establishes that Parent reasonably relied on a qualified tax professional who failed to make, or advise Parent to make, the Election, and that the request for relief was filed before the failure to make the Election was discovered by the Internal Revenue Service. See § 301.9100-3(b)(1)(i) and (v).

Based on the facts and information submitted, including the representations made, we conclude that Parent has acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, provided that Parent Group qualifies substantively to file a consolidated return for the tax year ending on Date 3, an extension of time is granted under § 301.9100-3, until 60 days from the date on this letter, for Parent Group to file the Election (by filing a consolidated return, with Parent as the common parent, and attaching a Form 1122 for each subsidiary for the tax year ending on Date 3). Parent must attach a copy of this letter to the return, or if Parent

Group files its returns electronically, a statement must be attached to the return that provides the date on, and the control number (PLR-125748-18) of, this letter ruling.

The above extension of time is conditioned on Parent Group's tax liability (if any) being not lower, in the aggregate, for all years to which the Election applies, than it would have been if the Election had been timely made (taking into account the time value of money). No opinion is expressed as to the taxpayer's tax liability for the years involved. A determination thereof will be made by the Director's office upon audit of the Federal income tax returns involved.

We express no opinion as to the tax effects or consequences of filing the Election or the return late under the provisions of any other section of the Code and regulations, or as to the tax treatment of any conditions existing at the time of, or resulting from, filing the Election or the return late that are not specifically set forth in the above ruling.

For purposes of granting relief under § 301.9100-3, we relied on certain statements and representations made by Parent, Company Official, and Tax Professional. However, the Director should verify all essential facts. In addition, notwithstanding that an extension is granted under § 301.9100-3 to file the Election, penalties and interest that would otherwise be applicable, if any, continue to apply.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

*Ken Cohen*

Ken Cohen

Senior Technician Reviewer, Branch 3

Office of Associate Chief Counsel (Corporate )