

## Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

October 25, 2001

### LEGEND

Taxpayer =

Entity 1 =

Entity 2 =

Tax Years X, Y, and Z =

Individuals A, B, and C =

CPA Firm =

Dear :

This replies to a letter dated April 18, 2001, submitted on your behalf by your authorized representative, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the agreement provided under § 1.1503-2(g)(2)(i), and to file the annual certification required under § 1.1503-2(g)(2)(vi)(B) with respect to the losses incurred by Entities 1 and 2 for Tax Years X, Y and Z. 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.

Individual A is Manager of Corporate Taxes for Taxpayer, and was responsible for the review of Form 1120 for Tax Years X, Y and Z. Individual B held the position of International Tax Law Specialist prior to his retirement from Taxpayer, and thereafter was engaged by Taxpayer through an independent consulting company to provide international tax consulting to Taxpayer for Tax Years X and Y. Individual C is an International Tax Principal with CPA Firm, and provides international tax advice to Taxpayer when the advice is requested by Taxpayer's employees.

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Taxpayer's Form 1120 for each of the Tax Years X, Y and Z took into account the dual consolidated losses of Entities 1 and 2.

The affidavits from Individuals A and B describe the circumstances surrounding the failure to file the agreements and annual certifications for Tax Years X and Y.

The affidavit from Individual C describes the circumstances surrounding the discovery of Taxpayer's failure to file the agreement and annual certification for Tax Year Z. The I.R.S. has not discovered or raised any issue concerning the dual consolidated losses or the failure to file the agreements and annual certifications.

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) fixes the time to file the agreement and 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 provided under § 1.1503-2(g)(2)(i), and to file the annual certification required under § 1.1503-2(g)(2)(vi)(B) with respect to the losses incurred by Entities 1 and 2 for Tax Years X, Y and Z. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements and annual certifications. § 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.

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

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