

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200449025**

Release Date: 12/3/04

Index Number: 9100.22-00, 1503.04-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B03 – PLR-139060-03

Date:

August 12, 2004

TYs:

Legend

Corp X =

Corp Y =

Corp Z =

DRC A =

DRC B =

DRC C =

DRC D =

DRC E =

DRC F =

DRC G =

DRC H =

DRC I =

DRC J =

DRC K =

DRC L =
DRC M =

DRC N =

Period O =

Date P=

Date Q =

Individual R =

Individual S =

Tax Year a =

Tax Year b =

Tax Year c =

Tax Year d =

Tax Year e =

Tax Year f =

Tax Year g =

Tax Year h =

Tax Year i =

Dear

This is in response to a letter dated May 16, 2003, in which Corp X requests an extension of time pursuant to Treas. Reg. §301.9100-1 to file the elective agreements required under Treas. Reg. §1.1503-2(g)(2)(i) in accordance with Exhibit A, which is attached to and made part of this ruling letter; the annual certification statements required by Treas. Reg. §1.1503-2(g)(2)(vi)(B) in accordance with Exhibit B, which is attached to and made part of this ruling letter; and the agreements described in Treas. Reg. §1.1503-2(g)(2)(iv)(B)(2)(iii) for the tax years that included Date P and Date Q. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for a ruling, it is subject to verification on examination.

On Date P, Corp Z merged with and into Corp Y with Corp Y surviving. On Date Q, Corp Y merged with and into Corp X with Corp X surviving. During Period O, Corp X, Corp Y, or Corp Z, in whole or in part, owned interests in certain entities that were dual resident corporations, as defined in Treas. Reg §1.1503-2(c)(2), including some entities that were hybrid entity separate units, as defined in Treas. Reg. §1.1503-2(c)(4), that had incurred dual consolidated losses (DCLs), as defined in Treas. Reg §1.1503-2(c)(5).

Individual R was in charge of the tax preparation of the Corp Z, Corp Y, and Corp X income tax returns during Period O. Individual S worked with and for Individual R in preparing the Corp Z, Corp Y, and Corp X income tax returns during Period O. In an affidavit, Individual S stated that due to an incorrect interpretation of the DCL rules, Individual S did not inform Individual R that the elections and certifications required by Treas. Reg. §1.1503-2(g)(2) to validly claim the losses with respect to the Corp Z, Corp Y, and Corp X consolidated returns for Tax Year a through Tax Year h were necessary and, therefore, the required documents were not filed in a timely manner. In addition, the agreements specified in Treas. Reg. §1.1503-2(g)(2)(iv)(B)(2)(iii) that should have been filed as a result of the Date P and Date Q transactions were not filed. Once Individual R and Individual S realized their error, this request for relief for an extension of time under Treas. Reg. §301.9100-3 to file elections and agreements in accordance with Exhibit A, the annual certifications in accordance with Exhibit B, as well as the election and agreement described in Treas. Reg. §1.1503-2(g)(2)(iv)(B)(2)(iii) with respect to the transactions that took place on Date P and Date Q was initiated.

Treas. Reg. §301.9100-1(b) provides that an election includes an application for relief in respect of tax and 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 Treas. Reg. §301.9100-3, to make a regulatory election under all subtitles in 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 Treas. Reg. §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, the election statement described in Treas. Reg. §1.1503-2(g)(2)(i), the annual certification statement described in Treas. Reg. §1.1503-2(g)(2)(vi)(B), and the election and agreement described in Treas. Reg. §1.1503-2(g)(2)(iv)(B)(2)(iii) are regulatory elections as defined in Treas. Reg. §301.9100-1(b). Therefore, the Commissioner has the discretionary authority under Treas. Reg. §301.9100-1(c) to grant an extension of time, provided that the Taxpayer satisfies the rules set forth in Treas. Reg. §301.9100-3(a).

Based upon the facts and circumstances submitted, we conclude that Corp X satisfies Treas. Reg. §301.9100-3(a). Accordingly, Corp X is granted an extension of time of 45 days from the date of this ruling letter to file the elections and agreements in accordance with Exhibit A; the annual certifications in accordance with Exhibit B; and the election and agreement described in Treas. Reg. §1.1503-2(g)(2)(iv)(B)(2)(iii) that should have been included in the appropriate Federal income tax returns for the tax years that included Date P and Date Q.

The granting of an extension of time is not a determination that Corp X is otherwise eligible to file the elections and agreements, and annual certifications. See Treas. Reg. §301.9100-1(a).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

A copy of this letter must be attached to any income tax return to which the letter is relevant.

Sincerely,

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

EXHIBIT A

Extension of time to file the Election and Agreement described in Treas. Reg. §1.1503-2(g)(2)(i) has been requested as indicated:

Name of Entity	Tax Year for which an Election and Agreement is Requested							
	TY a	TY b	TY c	TY d	TY e	TY f	TY g	TY h
DRC A	X	X	X				X	
DRC B			X	X	X	X	X	
DRC C	X				X	X	X	
DRC D				X		X	X	X
DRC E			X		X	X	X	X
DRC F	X		X	X	X		X	X
DRC G								X
DRC H								X
DRC I								X
DRC J			X	X	X	X		X
DRC K						X	X	
DRC L				X	X	X	X	X
DRC M				X	X	X	X	X
DRC N						X	X	X

Exhibit B

Extension of time to file the Annual Certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) has been requested as indicated:

Name of Entity	Tax Years for which an Annual Certification is Requested					
	TY d	TY e	TY f	TY g	TY h	TY i
DRC G						X
DRC H						X
DRC I						X
DRC J	X	X	X	X	X	X
DRC K				X	X	X

DRC L		X	X	X	X	X
DRC M		X	X	X	X	X
DRC N				X	X	X