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Department of the Treasury

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Person to Contact:

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Refer Reply To:
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Date:
March 1, 2000

LEGEND

- Taxpayer =
- Entity =
- CPA Firm =
- Individual A =
- Date A =

This replies to a letter dated September 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 the losses incurred by Entity for the tax year ended on Date A. Additional information was submitted in a letter dated November 22, 1999. 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, through two wholly owned subsidiaries, owned all of Entity. It is stated that Entity is treated as a hybrid entity separate unit under § 1.1503-2(c)(4) . Entity had a net operating loss in the taxable year ending on Date A, which Taxpayer reflected on its federal tax return.

Individual A is a manager with CPA Firm and was responsible for preparing Taxpayer's federal income tax return for the tax year ending on Date A, including all necessary elections and compliance statements. In reviewing the tax return, Individual A inadvertently failed to notice the omission of the election and statements required under § 1.1503-(g)(2).

In re: PLR:114830-99

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 required under § 1.1503-2(g)(2) for the losses incurred by Entity for the tax year ended on Date A. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the election. § 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,
Allen Goldstein, Reviewer
Office of the Associate Chief Counsel (International)