

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

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Telephone Number:

Refer Reply To:

CC: INTL:PLR-137127-02

Date:

June 16, 2003

**LEGEND**

Taxpayer =

Entity =

Dates 1 and 2 =

Individuals A, B =

and C

CPA Firm =

Dear :

This replies to a letter dated June 28, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement described in §1503-2(g)(2)(i) with respect to each dual consolidated loss of Entity incurred in the tax years ended on Date 1 and on Date 2, and to file the annual certification described in § 1.1503-2(g)(2)(vi) for the tax year ended on Date 2 with respect to the dual consolidated losses of Entity incurred in the tax year ended on Date 1. 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.

In re: PLR:137127-02

During the tax years at issue, Individual A was an officer of Taxpayer, and Individuals B and C were tax professionals with CPA Firm. The affidavits of Individuals A, B, and C and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer's failure to file the agreements and annual certification. In addition, the affidavits and facts show that Taxpayer relied upon CPA Firm and its tax professionals to file all necessary elections with respect to using the dual consolidated losses of Entity, but the tax professionals failed to notice that the elections were not attached to the tax returns for the tax years at issue.

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 § 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, the election and agreement, and the annual certification are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and information submitted, 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 election and agreement described in § 1503-2(g)(2)(i) with respect to each dual consolidated loss of Entity incurred in the tax years ended on Date 1 and on Date 2, and to file the annual certification described in § 1.1503-2(g)(2)(vi) for the tax year ended on Date 2 with respect to the dual consolidated losses of Entity incurred in the tax year ended on Date 1.

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The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and the annual certification. § 301.9100-1(a).

A copy of this ruling letter should be associated with the elections and agreements, and the annual certification.

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,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein  
Allen Goldstein  
Reviewer

Enclosure:

Copy for 6110 purposes