

**Internal Revenue Service**

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Person To Contact:

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Refer Reply To:

CC:INTL – PLR-169197-02

Date:

January 23, 2004

**LEGEND**

Taxpayer	=
	=
Entity A	=
Entity B	=
Y Percent	=
Z Percent	=
Dates One and	=
Two	
Affiliate	=
Individual A	=
Individual B	=
CPA Firm	=

Dear :

This replies to a letter dated December 11, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to make the election and file the agreement described in § 1.1503-2(g)(2)(i) with respect to Entity A's dual consolidated loss incurred in the tax year ended on Date One and with respect to the portions of Entity B's dual consolidated loss incurred in the tax year ended on Date Two attributable to Taxpayer's Y percent interest in Entity B and Affiliate's Z percent interest in Entity B. Taxpayer also requests an extension of time to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date Two with respect to Entity A's

In re: PLR – 169197-02

dual consolidated loss incurred in the tax year ended on Date One. 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.

Entity A generated a net operating loss for the tax year ended on Date One. Entity B generated a net operating loss for the tax year ended on Date Two. Taxpayer held a Y percent interest in Entity B, and Affiliate held a Z percent interest in Entity B. Affiliate is wholly owned by Taxpayer.

During the tax years ended on Dates One and Two, Taxpayer as common parent of the consolidated group retained primary responsibility for reporting all dual consolidated losses with regard to its foreign entities. Taxpayer personnel were responsible for the preparation of all corporate tax filings as well as all applicable corporate elections. For the same tax years, Taxpayer engaged CPA Firm, an outside tax consulting firm, to perform a limited review of Taxpayer's consolidated tax returns for those same tax years.

Individual A served as the tax director of Taxpayer for the tax years at issue. In that capacity, Individual A acted on behalf of Taxpayer with respect to the U.S. tax information reporting related to Taxpayer's foreign operations and interests, which included the interests in Entity A and Entity B.

Individual B is employed by CPA Firm as an international tax manager and was responsible for the initial review of Taxpayer's consolidated federal tax return for the tax year ended on Date Two.

The affidavits of Individuals A and B and the facts submitted show that Taxpayer relied on its tax professionals, Individual A and CPA Firm, to make the filings required under § 1.1503-2(g)(2). However, the tax professionals failed to make the required filings on behalf of Taxpayer.

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.

In re: PLR – 169197-02

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 agreements and annual certifications are regulatory elections within the meaning of § 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 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 45 days from the date of this ruling letter: (1) to make the election and file the agreement described in § 1.1503-2(g)(2)(i) with respect to Entity A's dual consolidated loss incurred in the tax year ended on Date One and with respect to the portions of Entity B's dual consolidated loss incurred in the tax year ended on Date Two attributable to Taxpayer's Y percent interest in Entity B and Affiliate's Z percent interest in Entity B; and (2) to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) for the tax year ended on Date Two with respect to Entity A's dual consolidated loss incurred in the tax year ended on Date One.

As provided in § 301-9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the agreements and 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.

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

In re: PLR – 169197-02

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 Taxpayer and the other authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein  
Allen Goldstein  
Reviewer

Attachment  
Copy for 6110 purposes