

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

, ID No.

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Refer Reply To:

CC:INTL – PLR-154227-03

Date:

April 13, 2004

In Re:

.

**LEGEND**

Taxpayer =

Entity A =

Entity B =

Entity C =

Date 1 =

Date 2 =

Date 3 =

Individual =

A

Individual =

B

CPA Firm =

Dear :

This replies to a letter dated September 10, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file a separate election agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses of Entity A and Entity B that were incurred in the tax year ended on Date 1; and to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) relating to the dual consolidated losses incurred by Entity A, Entity B and Entity C in the tax year ended on Date 2, with the tax return of Taxpayer for 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.

Individual A is a senior manager at CPA Firm, and had the responsibility to provide a limited review of Taxpayer's tax return for the tax year ended on Date 1. Individual B is employed by Taxpayer as its tax manager and oversees the preparation of Taxpayer's federal income tax return. The affidavit of Individual B indicates that she was advised by Individual A to file the election agreements and annual certifications with the tax return ended on Date 1, which was filed on Date 3. Because Individual B inadvertently failed to add these tasks to her list of open items at the time, the tax return was finalized and filed on Date 3 without the election agreements and annual certifications.

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 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 to file a separate election agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses of Entity A and Entity B that were incurred in the tax year ended on Date 1; and to file the annual certification described in § 1.1503-2(g)(2)(vi)(B) relating to the dual consolidated losses incurred by Entity A, Entity B and Entity C in the tax year ended on Date 2, with the tax return of Taxpayer for the tax year ended on Date 1.

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 election agreements and annual certifications.

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 election agreements and the annual certifications, described above, and associated with Taxpayer's tax return for the tax year ended on Date 1.

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