

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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Person To Contact:

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CC:INTL

PLR-156782-04

Date:

June 21, 2005

LEGEND

Taxpayer =

Entity =

Individual A =

Tax Year One =

Foreign Country =

X

Law Firm =

Dear :

This replies to your representative's letter dated September 1, 2004, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement described in § 1.1503-2(g)(2)(i) relating to the reporting of dual consolidated losses incurred by Entity in Tax Year One. Additional information was submitted in a letter dated February 25, 2005. 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 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 this 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 foreign subsidiary of a corporation included in Taxpayer's consolidated group, elected to be a disregarded entity for Tax Year One. In Tax Year One, Entity incurred a dual consolidated loss within I.R.C. § 1503(d) and Treas. Reg. § 1.1503-2(c)(5). Taxpayer included that loss in its consolidated federal income tax return for Tax Year One without making and filing the election and agreement required by § 1.1503-2(g)(2)(i).

Individual A, in his capacity as corporate tax manager for Taxpayer, in addition to his other responsibilities, was responsible for ensuring that the election and agreement described in Treas. Reg. § 1.1503-2(g)(2)(i) was timely filed for Tax Year One. After Taxpayer filed its consolidated federal income tax return for Tax Year One, on which it included Entity's loss, Individual A learned that the loss should not have been included since the election and agreement were not filed. This discovery prompted Taxpayer to engage the services of Law Firm to file this request for relief.

Taxpayer represents that the income tax laws of Foreign Country X do not deny the use of losses, expenses, or deductions of Entity to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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. § 301.9100-1(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. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, the election and agreement described in Treas. Reg. § 1.1503-2(g)(2)(i) is a regulatory election 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 standards for relief as set forth in § 301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated loss incurred by Entity in Tax Year One.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreement. Treas. Reg. § 301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible pursuant to § 1.1503-2(c)(15)(iv) to file an election agreement.

A copy of this ruling letter should be associated with the election and agreement.

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/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of Associate Chief Counsel (International)

Enclosure:

Copy for 6110 purposes