

## 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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Refer Reply To:

CC:INTL

PLR-170120-03

Date:

July 07, 2005

In Re:

## LEGEND

Taxpayer =

Individual A =

Individual B =

Individual C =

Date A =

Tax year one =

Tax year two =

Tax year three =

Tax year four =

Foreign country =

X

Foreign country =

Y

Entity One =

Entity Two =

Entity Three =

Dear :

This replies to a letter dated November 24, 2003, in which Taxpayer requests an extension of time under Treas. Reg. §301.9100-3 to file the election and agreement described in §1.1503-2(g)(2)(i), and the annual certification described in §1.1503-2(g)(2)(vi)(B) in accordance with Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted on April 5, 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 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's tax department prepared the federal corporate income tax returns for tax years one, two, three and four. Individual A was Taxpayer's former assistant treasurer, and was responsible for preparing the tax return for tax year one. Individual B was Taxpayer's former vice president of tax, and was responsible for preparing the tax returns for tax years two, three and four. However, both these individuals were unaware of the dual consolidated loss reporting requirements.

The tax return for tax year four was filed on or about Date A. Less than a year after Date A, Individual C became Taxpayer's corporate tax manager, and shortly thereafter began a review of Form 1120 for tax year four. This review led Individual C to question whether Taxpayer was subject to the DCL reporting requirements. Eventually, Individual C engaged CPA Firm to determine if Taxpayer should have filed the elections and agreements, and the annual certifications required by IRC §1503 and the regulations thereunder. CPA Firm subsequently informed Individual C that such elections and certifications should have been filed by Taxpayer.

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

Taxpayer represents that the income tax laws of foreign country Y do not deny the use of losses, expenses, or deductions of Entity Two and Entity Three to offset income of another person because the 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(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 described in §1.1503-2(g)(2) 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 of 60 days from the date of this ruling letter to file the election and agreement described in §1.1503-2(g)(2)(i), and the annual certification described in §1.1503-2(g)(2)(vi)(B) in accordance with Schedule A.

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 certifications. §301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file the election agreement pursuant to §1.1503-2(c)(15)(iv).

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

Sincerely,

Associate Chief Counsel (International)

By: /s/ Meryl Silver

Meryl Silver

Reviewer

Enclosures:

Schedule A

Copy for 6110 purposes

