

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

Telephone Number:

Refer Reply To:

CC:INTL – PLR-130061-04

Date: October 28, 2005

LEGEND

Taxpayer =

Entity X =

Entity Y =

Entity Z =

Date A =

Date B =

Date C =

Date D =

Country W =

Date E =

CPA Firm M =

Date F =

Individual A =

Dear :

This replies to your representative's letter dated May 28, 2004, in which your representative requests on behalf of Taxpayer and Entity X an extension of time under Treas. Reg. §301.9100-3 to file the required documents described in Treas. Reg. §1.1503-2(g)(2)(iii)(B) for the tax year ended on Date C to rebut the presumption of a triggering event described in §1.1503-2(g)(2)(iii)(A)(2) through (7). In a separate private

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letter ruling, this office has granted Taxpayer and Entity X, pursuant to your representative's request in that letter, an extension of 60 days from the date of the ruling letter to file the elections and agreements described in §1.1503-2(g)(2)(i) for tax years ended on Dates A, B, C, and D and annual certifications described in §1.1503-2(g)(2)(vi)(B) for tax years ended on Dates B, C, and D, with respect to Entity Y's dual consolidated losses incurred in the period beginning on Date E through the end of tax year ended on Date A and in tax years ended on Dates B, C, and D. Supplemental information was submitted by your representative in letter dated October 17, 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 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 is a United States corporation and the common parent of a consolidated group. Entity X is a United States corporation wholly owned by Taxpayer. Entity Y is a Country W corporation wholly owned by Taxpayer and Entity X. Taxpayer states that pursuant to an election under Treas. Reg. §301.7701-3(c) effective as of Date E, a date within Taxpayer's taxable year ending on Date A, Entity Y is treated as a partnership for federal income tax purposes.

Entity Y incurred losses that were dual consolidated losses, within the meaning of section 1503(d) of the Internal Revenue Code, in the period beginning on Date E through the end of tax year ended on Date A and in tax years ended on Dates B, C, and D. Taxpayer used those losses to offset its consolidated income for those years.

During Taxpayer's taxable year ended on Date C, Entity Y transferred its assets to Entity Z, a Country W entity. The transfer of Entity Y's assets into Entity Z is a triggering event under Treas. Reg. §1.1503-2(g)(2)(iii)(A)(5) unless Taxpayer demonstrates that Entity Y's losses cannot be used to offset the income of another person under the laws of Country W anytime after the transfer of assets. Taxpayer represents that the losses, expenses, and deductions of Entity Y cannot be carried over or otherwise utilized by Entity Z.

Taxpayer engaged CPA Firm M to review its international tax filings for tax years ended on Dates C and D. Individual A is Taxpayer's current Vice President-Tax. The affidavit of Individual A and the facts submitted show that CPA Firm M failed to advise Taxpayer to file the requisite rebuttal statement under Treas. Reg. §1.1503-2(g)(2)(iii)(B)

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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 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 filing of the required documents described in Treas. Reg. §1.1503-2(g)(2)(iii)(B) for the tax year ended on Date C 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 rules set forth in §301.9100-3(a).

Based on the facts and representations 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 required documents described in Treas. Reg. §1.1503-2(g)(2)(iii)(B) for the tax year ended on Date C.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file required documents described in Treas. Reg. §1.1503-2(g)(2)(iii)(B). Treas. Reg. §301.9100-1(a).

A copy of this ruling letter should be associated with the required documents described in Treas. Reg. §1.1503-2(g)(2)(iii)(B).

This ruling is directed only to 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.

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Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your first listed 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

cc: