

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B03

PLR-148890-04

Date:

December 02, 2005

TYs:

Legend

Corp A =

Corp B =

DRC 1 =

DRC 2 =

Individual M =

Individual N =

CPA Firm =

Date V =

Date W =

Date X =

Tax Year Y =

Tax Year Z =

Dear :

This replies to a letter dated September 15, 2004, in which Corp A and Corp B request an extension of time under Treas. Reg. §301.9100-3 to file annual certifications under Treas. Reg. §1.1503-2(g)(2)(vi)(B) (as in effect for transactions occurring before January 1, 2002) for Tax Year Y through Tax Year Z relating to dual consolidated losses, as defined in Treas. Reg. §1.1503-2(c)(5), incurred by DRC 1 and DRC 2. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is based upon information and representations submitted by the taxpayers and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Prior to Date V, Corp A was the common parent of an affiliated group of corporations that filed a consolidated federal income tax return. On Date W, Corp B ceased to be a member to the Corp A Group as a result of a plan or reorganization filed under Chapter 11 of the Bankruptcy Code, with Corp B becoming the parent of the Corp B Group. For Tax Year Y through Tax Year Z, Corp A filed elections and agreements described in Treas. Reg. §1.1503-2(g)(2)(i) but did not file annual certifications under Treas. Reg. §1.1503-2(g)(2)(vi)(B) with respect to DRC 1 and DRC 2. On Date X, Corp A's and Corp B's tax advisor, CPA Firm, discovered that, although elections statements pursuant to Treas. Reg. §1.1503-2(g)(2) for DRC 1 and DRC 2 losses were included with the prepared and filed income tax returns of Corp A, the annual certifications pursuant to Treas. Reg. §1.1503-2(g)(2)(vi)(B) for such losses were not filed. Affidavits of Individual M, an employee of Corp B, and Individual N, a partner of CPA Firm, and the facts submitted state that when CPA Firm was preparing a request for a Closing Agreement with respect to the transaction that took place on Date W, it discovered that the annual certifications required by Treas. Reg. §1.1503-2(g)(2)(vi)(B) inadvertently were not attached to the Corp A federal income tax returns for Tax Year Y through Tax Year Z. CPA Firm immediately notified Corp A and Corp B and this request for relief under Treas. Reg. §301.9100 was initiated.

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 Treas. Reg. §301.9100-3, to make a regulatory election under all subtitles in 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

Treas. Reg. §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 annual certification statement described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) is a regulatory election as defined in Treas. Reg. §301.9100-1(b). Therefore, the Commissioner has the discretionary authority under Treas. Reg. §301.9100-1(c) to grant an extension of time, provided that the taxpayer satisfies the rules set forth in Treas. Reg. §301.9100-3(a).

Based upon the facts and circumstances submitted, we conclude that Corp A and Corp B satisfy Treas. Reg. §301.9100-3(a). Accordingly, Corp B is granted an extension of time of 45 days from the date of this ruling letter to file the annual certifications described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) for Tax Year Y through Tax Year Z.

The granting of an extension of time is not a determination that Corp B is otherwise eligible to file the annual certifications. See Treas. Reg. §301.9100-1(a).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

Thomas D. Beem
Senior Technical Reviewer, Branch 4
Office of the Chief Counsel
(International)

cc: