

## Internal Revenue Service

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Department of the Treasury  
Washington, DC 20224

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

**CC: INTL – PLR-104623-06**

Date: April 18, 2006

Taxpayer = EIN:

Subsidiary = EIN:

Entity 1 =

Entity 2 =

Entity 3 =

Entity 4 =

Year 1 =

Year 2 =

Amount aa =

Amount bb =

Amount cc =

Amount dd =

Amount ee =

CPA Firm =

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Country A	=
Country B	=

Dear

This is in response to a letter dated December 27, 2005, requesting an extension of time under Treas. Reg. § 301.9100-3 to file the following: (1) elections under Treas. Reg. § 1.1503-2(g)(2)(i) for dual consolidated losses incurred by Subsidiary and Entities 1 through 4 in Year 1, and (2) an annual certification under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) for Year 2 with respect to the dual consolidated loss incurred by Subsidiary in Year 1. Additional information was submitted in a letter dated February 27, 2006. 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.

During Years 1 and 2, Subsidiary was a wholly owned Country A subsidiary of Taxpayer. Pursuant to I.R.C. § 1504(d), Taxpayer elected to treat Subsidiary as a U.S. corporation. Subsidiary incurred a dual consolidated loss in Year 1. In Year 1, Subsidiary incurred a dual consolidated loss of Amount ee. However, Taxpayer did not file the election agreement required by Treas. Reg. § 1.1503-2(g)(2) (“(g)(2) election”) with its Year 1 income tax return and also did not file the annual certification for the Year 1 loss as required by Treas. Reg. § 1.1503-2(g)(2)(vi)(B) with its Year 2 income tax return.

Entities 1 through 4 are Country B branches of certain wholly owned subsidiaries of Taxpayer and are separate units described in Treas. Reg. § 1.1503-2(c)(3)(A). Entities 1 through 4 incurred dual consolidated losses in Year 1 of Amounts aa through dd, respectively. However, Taxpayer did not file the (g)(2) elections for these losses with its Year 1 income tax return.

For Year 1, Taxpayer prepared its federal income tax return and engaged CPA Firm to review the return. Taxpayer relied on CPA Firm to advise it on tax matters that came to CPA Firm’s attention during the course of CPA Firm’s review of the return. No (g)(2) elections for Year 1 were made because Taxpayer was not aware of the need to make

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the elections and CPA Firm did not advise Taxpayer that such elections were necessary. Taxpayer did, however, deduct all of the dual consolidated losses incurred by the Subsidiary and the Country B branches on its Year 1 return. For Year 2, Taxpayer prepared its federal income tax return and engaged CPA Firm to review the return. Taxpayer again relied on CPA Firm to advise it on tax matters that came to CPA Firm's attention during the course of CPA Firm's review of the return. Taxpayer was not advised that an annual certification pursuant to Treas. Reg. § 1.1503-2(g)(2)(vi)(B) with respect to Subsidiary's Year 1 loss should have been filed with its Year 2 return.

The following representation was provided with respect to this request for a ruling:

The income tax laws of Country B do not deny the use of losses, expenses, or deductions of Entities 1 through 4 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(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 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 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 filings described in Treas. Reg. § 1.1503-2(g)(2) are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

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 elections and the certification

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described in this letter for the dual consolidated losses incurred in Year 1 by Subsidiary and Entities 1 through 4.

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

A copy of this ruling letter should be associated with the election agreements and the annual certifications that are the subject of this ruling.

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's authorized representatives.

Sincerely,

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Thomas D. Beem  
Senior Technical Reviewer  
CC: INTL:Br4

Enclosure:  
Copy for 6110 purposes

cc: