

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Refer Reply To:

CC: INTL – PLR-132748-05

Date: April 20, 2006

In Re:

Taxpayer = EIN:

Entity =
EIN:

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

aa =

bb =

CPA Firm =

Dear :

This is in reply to a letter dated June 16, 2005, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) and annual certifications under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) for Year 2 through Year

In re: PLR-132748-05

4 with respect to dual consolidated losses attributable to the interests in Entity. Additional information was received in a letter dated February 9, 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.

The Taxpayer has an internal tax department consisting of six individuals. However, because less than two percent of the Taxpayer's business is with distributors in foreign countries, and that prior to Year 1, the Taxpayer had no affiliates organized outside of the United States, the Taxpayer's tax department does not have a dedicated international tax specialist and does not have broad experience addressing international tax issues. Accordingly, Taxpayer's tax department failed to file the elections and certifications required by Treas. Reg. § 1.1503-2(g)(2) with respect to the dual consolidated losses incurred by Entity during Year 2 and Year 3. In Year 5, during the course of a due diligence project, CPA Firm notified Taxpayer of the requirement to make the elections and certifications.

The interest in Entity is a hybrid entity separate unit as described in §1.1503-2(c)(4). Dual consolidated losses of Amount aa for Year 2 and Amount bb for Year 3 are attributable to the interest in Entity. Elections were not filed for either the Year 2 loss or the Year 3 loss, and certifications for the Year 2 and Year 3 losses were not filed with Taxpayer's Year 3 and Year 4 income tax returns.

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

In re: PLR-132748-05

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 certifications for the dual consolidated losses described in this letter attributable to Entity for Years 2 and 3.

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).

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 representative.

Sincerely,

Meryl Silver
Special Counsel
CC:INTL:Br4

Enclosure:
Copy for 6110 purposes