

Internal Revenue Service

Department of the Treasury
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Person To Contact:

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Refer Reply To:

CC:INTL – PLR-158781-04

Date:

May 1, 2006

LEGEND

Taxpayer 1 =

EIN:

Taxpayer 2 =

EIN:

Entity =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Date A =

aa =

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bb =

cc =

Firm 1 =

Firm 2 =

Dear

This is in response to a letter dated November 2, 2004, in which Taxpayers 1 and 2 request an extension of time under Treas. Reg. § 301.9100-3 to file the following: (1) the elections under Treas. Reg. § 1.1503-2(g)(2)(i) with respect to dual consolidated losses attributable to the interest in Entity in tax years ended on Year 1, Year 2 and Year 3 and (2) the annual certifications required under § 1.1503-2(g)(2)(iv)(B) losses attributable to the interest in Entity for Year 1, Year 2 and Year 3. Additional information was received in a letter dated February 7, 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.

Taxpayer 1 is a publicly traded corporation that acquired all of the outstanding stock of Taxpayer 2 on Date A. 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 1, Amount bb for Year 2 and cc for Year 3 are attributable to the interest in Entity. Elections were not filed for the Year 2 and Year 3 losses and certifications were not filed for the Year 1 and Year 2 losses with Taxpayer's Year 2 and Year 3 tax returns, respectively.

Taxpayer 2's internal staff prepared and timely filed its tax return for the year ended Year 2. During this period the Taxpayer 2's tax department consisted of three income tax professionals. Also during this period, there was no manager or director of international tax. Taxpayer 2's tax department missed the requirement to file an election pursuant to Treas. Reg. § 1.1503-2(g)(2)(i) with respect to dual consolidated losses incurred by Entity during Year 2. In addition, no certification was filed with respect to the Year 1 loss incurred by Entity.

Taxpayer 2 retained Firm 1 to prepare its return for the tax year ended Year 2. Firm 1 inadvertently failed to file an election respect to dual consolidated losses incurred by

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Entity during Year 2. Firm 1 also inadvertently failed to file annual certifications for losses incurred by Entity in and .

In September of Year 4, Firm 2 began reviewing Taxpayer 2's international tax issues. During this review, it was discovered that Taxpayer 2's return for Year 3 did not include an election Entity's losses for that year. The return also did not include the annual certifications for Entity's Year 1 and Year 2 losses.

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 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 within the meaning of Treas. Reg. § 301.9100-3(b), subject to the conditions set forth in Treas. Reg. § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of Treas. Reg. § 301.9100-3(c).

In the present situation, the election and agreement described in Treas. Reg. § 1.1503-2(g)(2)(i) is a regulatory election 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 1 and Taxpayer 2 an extension of time, provided that Taxpayer 1 and Taxpayer 2 satisfy the standards for relief as set forth in Treas. Reg. § 301.9100-3.

Based on the information and representations submitted, we conclude that Taxpayer 1 and Taxpayer 2 satisfy Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer 1 and Taxpayer 2 are granted an extension of time of 60 days from the date of this ruling letter to file the elections and certifications described in this letter attributable to Entity for Years 1 through 3.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements. § 301.9100-1(a).

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

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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.

Sincerely,

Mae J. Lew
Special Counsel
Office of Chief Counsel (International)