

## Internal Revenue Service

Number: **200714012**

Release Date: 4/6/2007

Index Number: 9100.22-00, 1503.04-04

Department of the Treasury  
Washington, DC 20224

Person To Contact:

Telephone Number:

Refer Reply To:

CC:INTL

PLR-143573-06

Date:

January 04, 2007

Taxpayer = EIN:

Entity 1 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Year 5 =

Year 6 =

Year 7 =

Year 8 =

aa =

bb =

cc =

dd =

ee	=
ff	=
gg	=
hh	=
Country A	=
CPA Firm	=

Dear

This is in response to a letter dated August 24, 2006, requesting an extension of time under Treas. Reg. § 301.9100-3 to file the following with respect to dual consolidated losses attributable to the Taxpayer's interest in Entity 1: (1) elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable, for Years 1 through 8, and (2) annual certifications under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) for Years 1 through Year 8. Additional information was submitted in a letter dated November 29, 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 failed to make the elections required by Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable, for Years 1 through 8. Due to the high turnover in Taxpayer's tax department, no one is certain which specific individual(s) in the tax department determined that no elections were necessary in order to take into account the losses. As best as can be determined, Taxpayer's tax department did an analysis of the dual consolidated loss regulations, other respected authorities and Country A tax laws. In the course of this analysis, Taxpayer's tax department came to the conclusion that the dual consolidated rules did not apply to the losses since there was no tax consolidation allowed under Country A law and no other ability to use the loss in the jurisdiction to offset the income of another person in the in the same taxable year.

Entity 1 is disregarded as an entity separate from its owner. The interest in Entity 1 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 1 has activities in Country A that constitute a foreign branch ("Entity 1 Branch") within the

meaning of Treas. Reg. § 1.367(a)-6T(g). Entity 1 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A). Dual consolidated losses of Amount aa for Year 1, bb for Year 2, cc for Year 3, dd for Year 4, ee for Year 5, ff for Year 6, gg for Year 7 and hh for Year 8 are attributable to Entity 1 Branch. No dual consolidated losses are attributable to the interest in Entity 1. No election agreement was filed with respect to the losses incurred in Years 1 through 8.

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) and Treas. Reg. § 1.1503-2T(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 described in this letter for dual consolidated losses for Years 1 through 8 that are attributable to Entity 1 Branch. Taxpayer is not required to file annual certifications under the facts described herein because the Taxpayer's dual consolidated losses are attributable to a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A) and, therefore, an extension of time is not necessary in this regard. Treas. Reg. § 1.1503-2(g)(2)(vi)(C).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreement. Treas. Reg. § 301.9100-1(a).

A copy of this ruling letter should be associated with the elections 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,

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Michael A. DiFronzo  
Deputy Associate Chief Counsel  
(International)

Enclosure:  
Copy for 6110 purposes