

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200738003**

Release Date: 9/21/2007

Index Number: 9100.22-00, 1503.04-04

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, ID No.

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CC: INTL

PLR-109246-07

Date:

June 22, 2007

Taxpayer =

Entity 1 =

Entity 2 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Country A =

CPA Firm =

In re: PLR-109246-07

Dear :

This is in response to a letter dated February 15, 2007, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i) ("Elections"), as applicable, for Years 1 through 4 with respect to dual consolidated losses attributable to Taxpayer's and Entity 1's separate units owned indirectly through Taxpayer's and Entity 1's interests in Entity 2, as described below. 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, a domestic corporation, was the common parent of a consolidated group that included Entity 1, a domestic corporation, for Years 1 through 4. For Years 1 through 4, Taxpayer and Entity 1 owned, in the aggregate, 100 percent of the interests in Entity 2. Entity 2, an entity organized under the laws of Country A, is a partnership for U.S. tax purposes. The interests in Entity 2 are separate units described in Treas. Reg. § 1.1503-2(c)(3)(i)(B), and hybrid entity separate units described in Treas. Reg. § 1.1503-2(c)(4). During Years 1 through 4, Entity 2 conducted activities in Country A that constituted a foreign branch ("Entity 2 Branch") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Taxpayer's and Entity 1's interests in Entity 2 Branch, owned indirectly through their interests in Entity 2, are separate units described in Treas. Reg. § 1.1503-2(c)(3)(i)(A). Dual consolidated losses were attributable to Taxpayer's and Entity 1's interests in Entity 2 Branch in Years 1 through 4. No dual consolidated losses were attributable to the interests in Entity 2 for Years 1 through 4.

During Years 1 through 4, Taxpayer relied on CPA Firm for preparing and reviewing its federal income tax returns, and to advise them regarding all forms, elections, and agreements required to be included in its federal income tax returns. Taxpayer also relied on CPA Firm to determine whether any losses incurred by Entity 2 were dual consolidated losses as described in Treas. Reg. § 1.1503-2(c)(5). Based on advice received from CPA Firm that the losses incurred by Entity 2 were not dual consolidated losses because of the exception contained Treas. Reg. § 1.1503-2(c)(5)(ii), Taxpayer did not file the Elections with its federal income tax return for dual consolidated losses attributable to the interests in the Entity 2 Branch for Years 1 through 4.

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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. § 301.9100-1(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. § 301.9100-3(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 Elections 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 to make these filings, 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 and Entity 1 satisfied Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer, on its own behalf and on behalf of Entity 1, is granted an extension of time of 60 days from the date of this ruling letter to file the Elections with respect to the dual consolidated losses attributable to the interests in Entity 2 Branch for Years 1 through 4. Taxpayer is not required to file annual certifications with respect to losses attributable to its or Entity 1's interest in Entity 2 Branch because such interests are separate units described in Treas. Reg. § 1.1503-2(c)(3)(i)(A). Treas. Reg. § 1.1503-2(g)(2)(vi)(C). Therefore, an extension of time is not necessary in this regard.

For taxable years prior to Year 1, Taxpayer and Entity 1 failed to file the regulatory elections and agreements under Treas. Reg. § 1.1503-2(g)(2)(i) with respect to dual consolidated losses attributable to Taxpayer's and Entity 1's interests in Entity 2 Branch. Taxpayer and Entity 1 did not request relief for such filings, however, because the period for assessment and collection of tax for such years has expired under the rules of section 6501, and no portion of the dual consolidated losses was included in a net operating loss that carried forward to a taxable year for which such period has not expired.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the Elections.

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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 representatives.

Sincerely,

John J. Merrick
Special Counsel
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purpose s