

## Internal Revenue Service

Number: **200740003**  
Release Date: 10/5/2007

Index Number: 9100.22-00, 1503.04-04

Department of the Treasury  
Washington, DC 20224

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL  
PLR-111504-04

Date:  
July 03, 2007

### LEGEND

Taxpayer =  
State Y =  
Foreign country =  
X  
Date A =  
Date B =  
Corp Y =  
Year 1 =  
Year 2 =  
Year 3 =  
CPA Firm A =  
CPA Firm B =

Dear :

This replies to your representative's letter dated December 20, 2004, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i), and the annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) in accordance with Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted in letters dated June 16, 2005, August 23, 2005, May 29, 2006, and April 2, 2007. 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 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 was incorporated in State Y on Date A, and was incorporated in foreign country X on Date B. During years 1, 2 and 3, Taxpayer was indirectly owned by Corp Y, a foreign corporation. Taxpayer was the common parent of a group of affiliated corporations that filed a consolidated U.S. income tax return. Taxpayer is a dual resident corporation as defined in Treas. Reg. § 1.1503-2(c)(2).

Taxpayer incurred dual consolidated losses (DCLs), as defined in Treas. Reg. 1.1503-2(c)(5), in years 1, 2 and 3 that were included in Taxpayer's consolidated U.S. income tax return for those years. However, for various reasons discussed in the facts and affidavits, the requisite election agreement described in Treas. Reg. §1.1503-2(g)(2)(i), and the requisite annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) were not included with the consolidated U.S. income tax returns for the years indicated in Schedule A. This omission occurred despite the fact that Taxpayer relied on the tax professionals in Corp Y's tax department, which was responsible for all U.S. tax matters of Taxpayer, and on outside tax professionals with CPA Firms A and B to ensure that the DCLs would be properly claimed in each year. This omission was subsequently discovered during a review of the tax return filings for years 1, 2 and 3.

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. §301.9100-1(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 §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 election and agreement and the annual certification described in Treas. Reg. §1.1503-2(g)(2)(i) and (vi)(B), respectively, are regulatory elections as defined in §301.9100-1(b). Therefore, the Commissioner has discretionary

authority under §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in §301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies the standards set forth in 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 election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i), and the annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) in accordance with Schedule A. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and the annual certifications. Treas. Reg. §301.9100-1(a).

A copy of this ruling letter should be associated with the elections and agreements, and the annual certifications.

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 your first and second listed authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: \_\_\_\_\_  
Thomas Beem  
Senior Technical Reviewer  
Office of the Associate Chief Counsel (International)

Enclosures (2):  
Schedule A  
Copy for 6110 purposes

cc:

## SCHEDULE A
