

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

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Date:

June 27, 2008

Legend

Parent =

Sub1 =

Sub2 =

Sub3 =

StateA =

Date1 =

Date2 =

Date3 =

Year =

Company Official =

Tax Professionals =

Dear :

This letter responds to a letter dated April 14, 2008, submitted on behalf of Parent, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election. The extension is being requested for Parent and its includible subsidiaries to make an election to file a consolidated Federal income tax return, with Parent as the common parent, under § 1.1502-75(a)(1) of the Income Tax Regulations (the "Election"), effective for the taxable year ended Date1. Additional information was received in a letter dated June 20, 2008. The material information is summarized below.

Parent is a limited liability company under the laws of StateA. Parent has elected to be treated as a corporation for Federal income tax purposes by filing a Form 8832, Entity Classification Election. Parent, as of the end of Year, directly held all of the stock of its affiliated group of includible subsidiaries, Sub1, Sub2, and Sub3.

An election under § 1.1502-75(a)(1) for the Parent affiliated group to file a consolidated return for Year was due on Date2. However, for various reasons, a valid Election was not timely filed. Subsequently, this request was submitted, under § 301.9100-3, for an extension of time to file the Election. The period of limitations on assessment under § 6501(a) of the Internal Revenue Code ("Code") has not expired for Parent's or its subsidiaries' taxable years for which they desire to make the Election, or for any taxable year that would be affected by the Election, had it been timely filed.

Section 1.1502-75(a)(1) provides that a group which did not file a consolidated return for the immediately preceding taxable year may file a consolidated return in lieu of separate returns for the taxable year, provided that each corporation which has been a member of the group during any part of the taxable year for which the consolidated

return is to be filed consents to the regulations under § 1502. If a group wishes to exercise its privilege of filing a consolidated return, such consolidated return must be filed not later than the last day prescribed by law (including extensions of time) for filing the common parent's return.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making regulatory elections that do not meet the requirements of § 301.9100-2. Requests for relief under § 301.9100-3 will be granted when it is established that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

In this case, the time for filing the Election is fixed by the regulations (i.e., § 1.1502-75(a)(1)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent and its subsidiaries to file the Election, provided Parent and its subsidiaries acted reasonably and in good faith, that the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, representations, and affidavits submitted by Parent, Company Official, and Tax Professionals explain the circumstances that resulted in the failure to timely file the Election. The information establishes that Parent reasonably relied on qualified tax professionals who failed to make, or advise Parent to make, the Election. See § 301.9100-3(b)(1)(v).

Based on the facts and information submitted, including the affidavits submitted and representations that have been made, we conclude that Parent and its subsidiaries have shown they acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, an extension of time is granted under § 301.9100-3, until Date3, for Parent and its subsidiaries to file the Election (by filing a consolidated return, with Parent as the common parent, and attaching a Form 1122 for each of the subsidiaries) for the Year taxable year.

The above extension of time is conditioned on the taxpayers' (Parent's and its subsidiaries') tax liability, if any, being not lower, in the aggregate, for all years to which

the Election applies, than it would have been if the Election had been made timely (taking into account the time value of money).

No opinion is expressed as to the taxpayers' tax liability for the years involved. A determination thereof will be made by the Director's office upon audit of the Federal income tax returns involved. In addition, no opinion is expressed as to the Federal income tax effect, if any, if it is determined that the taxpayers' tax liability is lower. Section 301.9100-3(c).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Further, we express no opinion as to the tax consequences of filing the Election late under the provisions of any other section of the Code and regulations, or as to the tax treatment of any conditions existing at the time of, or resulting from, filing the Election late that are not specifically set forth in the above ruling. Specifically, no opinion is provided as to whether, in fact, Parent and its subsidiaries qualify substantively to file a consolidated return.

For purposes of granting relief under § 301.9100-3, we relied on certain information and affidavits provided by Parent, Company Official, and Tax Professionals under penalties of perjury. However, the Director should verify all essential facts. Moreover, notwithstanding that the extension is granted under § 301.9100-3 to file the Election, any penalties and interest that would otherwise be applicable still apply.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

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Ken Cohen  
Senior Technician Reviewer, Branch 3  
Office of Associate Chief Counsel  
(Corporate)