

Internal Revenue Service

Number: **201507006**

Release Date: 2/13/2015

Index Number: 1502.13-00, 9100.22-00

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:CORP:B06

PLR-120199-14

Date:

November 12, 2014

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Year End =

\$a =

\$b =

Company Official =

Dear :

This letter is in response to your authorized representative's letter dated May 15, 2014, requesting an extension of time under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to file an election under § 1.1502-13(l)(3) of the Income Tax Regulations (hereinafter referred to as the "Election"). Additional information was received in letters dated July 10, 2014, July 30, 2014, August 21, 2014, September 17, 2014, and November 12, 2014. The material information is summarized below.

Parent is the common parent of a consolidated group that has a taxable year ending Year End (the "Parent Group"). Parent owns all the stock of Sub 1 and Sub 2. Sub 2 owns all the stock of Sub 3. Sub 3 owns all the stock of Sub 4. Sub 1, Sub 2, Sub 3, and Sub 4 are all members of the Parent Group.

As part of a proposed restructuring, Sub 4 will liquidate into Sub 3 and Sub 2 will convert to an entity disregarded as separate from Parent for Federal tax purposes.

In July 1995, the Internal Revenue Service and Treasury Department published new intercompany transaction regulations under § 1.1502-13 governing the treatment of transactions between members of a consolidated group. The regulations are generally effective for transactions occurring in taxable years beginning on or after July 12, 1995. Section 1.1502-13(l)(1).

Section 1.1502-13(l)(3) of the regulations permitted taxpayers to elect to have the regulations apply to certain stock elimination elections (i.e., those transactions described in § 1.1502-13(l)(3)(ii)) that occurred in a year to which prior law would otherwise apply (the "Prior § 1.1502-13 Regulations"). To make the Election under

§ 1.1502-13(l)(3), taxpayers were required to include a statement making the Election with their original return for the taxable year including July 12, 1995.

Prior to July 12, 1995, the following transactions were entered into by members of the Parent Group:

1. On Date 1, a wholly-owned subsidiary of Sub 1 merged with and into Sub 2 in a stockless merger treated as a tax-free reorganization. Sub 1 was treated as distributing to Parent the deemed Sub 2 shares received in the merger to properly reflect stock ownership in Sub 2. Sub 1 recognized approximately \$a of gain on the deemed distribution of Sub 2 stock, all of which was deferred under the Prior § 1.1502-13 Regulations.

2. On Date 2, a wholly-owned subsidiary of Sub 4 merged with and into Sub 2 in a stockless merger treated as a tax-free reorganization. Sub 4 was treated as distributing the deemed Sub 2 shares received in the merger to Sub 3, which in turn was treated as distributing the deemed shares to Parent to properly reflect stock ownership in Sub 2. Sub 4 recognized approximately \$b of gain on the deemed distribution, all of which was deferred under the Prior § 1.1502-13 Regulations.

3. On Date 3, Parent transferred the stock of Sub 3 to Sub 2 in a transaction intended to qualify as a tax-free exchange described in § 351.

The Election was required to be filed by Date 4, but for various reasons, a valid Election was not filed. On Date 5 (which was after the due date for the Election), it was discovered that no Election was made by Parent with respect to the Parent Group.

Parent has represented that except for the transactions described in this letter, no member of the Parent Group had any deferred stock gain or loss at any time during the taxable year that included July 12, 1995, from an intercompany transaction. Parent has also represented that it is not seeking to alter a return position for which an accuracy related penalty has been or could be imposed under § 6662.

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 Internal Revenue 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. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish 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., § 1.1502-13(l)(3)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent to file the Election, provided Parent shows it 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.

Information, affidavits, and representations submitted by Parent and Company Official explain the circumstances that resulted in the failure to timely file a valid Election. The information establishes that the request for relief was filed before the failure to make the Election was discovered by the Internal Revenue Service. See § 301.9100-3(b)(1)(i).

Based on the facts and information submitted, including the representations made, we conclude that Parent has shown it 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 60 days from the date on this letter, for Parent to file the Election. The election must be attached to an amended return for the period including July 12, 1995.

The above extension of time is conditioned on Parent's consolidated group's 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 timely filed (taking into account the time value of money). No opinion is expressed as to the taxpayer's tax liability for the years involved. A determination thereof will be made by the applicable Director's office upon audit of the Federal income tax returns involved.

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. In particular, we express no opinion with respect to whether Parent Group qualifies substantively to make the Election.

In addition, 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. For purposes of granting relief under § 301.9100-3, we relied on certain statements and representations made by the taxpayer. However, the Director should verify all essential facts. In addition, notwithstanding that an extension is granted under § 301.9100-3 to file the Election, penalties and interest that would otherwise be applicable, if any, continue to apply.

This letter is directed only to the taxpayer who requested it. Section 6110(k)(3) 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 this letter ruling.

Pursuant to the power of attorney on file in this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Ken Cohen

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