

Internal Revenue Service

Number: **201751012**

Release Date: 12/22/2017

Index Number: 9100.20-00, 1502.75-00

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:2

PLR-118031-17

Date:

September 27, 2017

LEGEND

Parent =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Date 1 =

Date 2 =

Date 3 =

Firm 1 =

Firm 2 =

Company
Official 1 =

Company
Official 2 =

Tax
Professional =

Dear :

This letter responds to a letter dated May 24, 2017, submitted on behalf of Parent, requesting an extension of time under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to make an election. The extension is being requested for Parent Group, as defined below, to make an election under § 1.1502-75(a)(1) to file a consolidated return for the tax year ended on Date 2 (“the Election”). The material information submitted for consideration is summarized below.

Parent became the common parent of a new affiliated group (“Parent Group”) as the result of the acquisition of the stock of Sub 1, Sub 2, Sub 3, Sub 4, Sub 5, Sub 6, Sub 7, and Sub 8 (collectively “the Subsidiaries”) on Date 1. Parent represents that the acquisitions of the Subsidiaries did not constitute reverse acquisitions within the meaning of § 1.1502-75(d)(3). Parent Group intended to file a consolidated return for the tax year ended on Date 2. Parent engaged Tax Professional to prepare an automatic extension request on Form 7004 and Firm 1 to prepare a consolidated return

for Parent Group. Firm 2 replaced Firm 1 in preparing the consolidated return for Parent's tax year ended Date 2 on Date 3.

Parent Group filed a consolidated return for the tax year ended Date 2 on or before the extended due date of the return if a valid automatic extension had been filed. It was then discovered that, for various reasons, a valid extension on Form 7004 had not been filed. Immediately after this discovery, Parent submitted this request for an extension of time under § 301.9100-3 to file a valid Election. Parent Group has represented that it is not attempting to alter a return position taken for which a penalty has been or could be imposed under section 6662 at the time of the ruling request and for which the new position requires or permits a regulatory election for which relief is requested.

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. 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 the taxpayer provides evidence to establish to the satisfaction of the Commissioner 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 Group to file the Election, provided Parent establishes 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, Company Official 1, Company Official 2, and Tax Professional explain the circumstances that resulted in the failure to timely file a valid election. The information establishes that Parent reasonably relied on a qualified tax professional who failed to make, or advise Parent to make, the Election, and that the request for relief was filed before the failure to timely make the Election was discovered by the Internal Revenue Service. See § 301.9100-3(b)(1)(i) and (v).

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, provided that Parent Group qualifies substantively to file a consolidated return for the tax year ended Date 2, 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. Parent Group, having already filed a consolidated return for the tax year, must amend the return by attaching a copy of this letter to the return, or if Parent Group files its returns electronically, Parent Group may satisfy this requirement by attaching a statement to its return that provides the date on, and the control number (PLR-118031-17) of, this letter ruling.

The above extension of time is conditioned on Parent 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 made (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.

We express no opinion as to the tax effects or consequences of filing the Election or the return 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 Parent Group, Company Official 1, Company Official 2, and Tax Professional. However, the Director should verify all essential facts. Moreover, 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.

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

Sincerely,

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

cc: