

Internal Revenue Service

Department of the Treasury
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Person To Contact:

Telephone Number:

Refer Reply To:

CC:INTL – PLR-130069-04

Date: October 28, 2005

LEGEND

Taxpayer =
Entity X =
Entity Y =
Date A =
Date B =
Date C =
Date D =
Country Z =
Date E =
CPA Firm M =
CPA Firm N =
Individual A =
Date F =
Individual B =

Dear :

This replies to your representative's letter dated May 28, 2004, in which your representative requests on behalf of Taxpayer and Entity X an extension of time under Treas. Reg. §301.9100-3 to file the elections and agreements described in §1.1503-2(g)(2)(i) for tax years ended on Dates A, B, C, and D and annual certifications described in §1.1503-2(g)(2)(vi)(B) for tax years ended on Dates B, C, and D. The

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elections and agreements and certifications are required with respect to Entity Y's dual consolidated losses incurred in the period beginning on Date E through the end of tax year ended on Date A and in tax years ended on Dates B, C, and D. Supplemental information was submitted by your representative in letters dated February 22, 2005, and October 17, 2005. 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 is a United States corporation and the common parent of a consolidated group. Entity X is a United States corporation wholly owned by Taxpayer. Entity Y is a Country Z corporation wholly owned by Taxpayer and Entity X. Taxpayer states that pursuant to an election under Treas. Reg. §301.7701-3(c)(1)(i) effective as of Date E, a date within Taxpayer's taxable year ending on Date A, Entity Y is treated as a partnership for federal income tax purposes.

Entity Y incurred losses that were dual consolidated losses, within the meaning of section 1503(d) of the Internal Revenue Code, in the period beginning on Date E through the end of tax year ended on Date A and in tax years ended on Dates B, C, and D. Taxpayer used those losses to offset its consolidated income for those years.

Taxpayer engaged CPA Firm M to review its international tax filings for tax years ended on Dates A and B. Taxpayer engaged CPA Firm N to review its international tax filings for tax years ended on Dates C and D. Individual A was Taxpayer's Vice President-Tax until Date F. Individual B is Taxpayer's current Vice President-Tax. The affidavit of Individual A and the facts submitted show that CPA Firm M failed to advise Taxpayer to file the elections and agreements described in §1.1503-2(g)(2)(i) for tax years ended on Dates A and B and to file the annual certification described in §1.1503-2(g)(2)(vi)(B) for tax year ended on Date B. Also, the affidavit of Individual B and the facts submitted show that CPA Firm N failed to advise Taxpayer to file the elections and agreements and the annual certifications for tax years ended on Dates C and D.

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.

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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 described in Treas. Reg. §1.1503-2(g)(2) and the annual certification described in §1.1503-2(g)(2)(vi)(B) 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 representations submitted, we conclude that Taxpayer satisfies Treas. Reg. §301.9100-3(a). Accordingly, Taxpayer and Entity X are each granted an extension of time of 60 days from the date of this ruling letter to file the elections and agreements described in §1.1503-2(g)(2)(i) for the tax years ended on Dates A, B, C, and D with respect to Entity Y's dual consolidated losses. Also, Taxpayer and Entity Y are each granted an extension of time of 60 days from the date of this ruling letter to file the annual certifications required under §1.1503-2(g)(2)(vi)(B) for tax years ended on Dates B, C, and D with respect to Entity Y's dual consolidated losses.

We note that Taxpayer represents that Entity Y became a "hybrid entity separate unit", as defined in Treas. Reg. §1.1503-2(c)(4), on Date E, a date within Taxpayer's taxable year ended on Date A. Therefore §1.1503-2(c)(5)(ii)(B) applies in determining the amount of Entity Y's dual consolidated loss incurred in Taxpayer's taxable year ended on Date A. Taxpayer must satisfy the requirements of §1.1503-2T(2)(i)(E) in addition to the other requirements of §1.1503-2T.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements and annual certifications. Treas. Reg. §301.9100-1(a).

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

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This ruling is directed only to 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 listed representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of Associate Chief Counsel (International)

Enclosure:

Copy for 6110 purposes

cc: