

Internal Revenue Service

Department of the Treasury

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Person to Contact:

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Date:
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LEGEND

Taxpayer =
Sub #1, #2, #3 =
Tax Year Ending ("TYE") #1 through #11 =

Dear :

This replies to a letter dated May 17, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the certification described in § 1.1503-2A(d)(3) for TYE #3, #4, and #6 for Sub #1; TYE #1, #2, and #4 through #6 for Sub #2; and TYE #1 through #6 for Sub #3, and to replace such certifications with the agreement described in § 1.1503-2(g)(2) as provided in § 1.1503-2(h)(2)(ii); and to file the agreement described in § 1.1503-2(g)(2)(i) for TYE #8 through #10 for Subs #1 and #2; and for TYE #7, #10 and #11 for Sub #3. Additional information was submitted in letters dated September 10, 1999 and December 16, 1999. 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 the 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 the common parent of an affiliated group of corporations filing a consolidated federal income tax return ("the Group"). Subs #1, #2, #3 are indirectly wholly owned U.S. subsidiaries of Taxpayer. Subs #1, #2, and #3 operate as branches in foreign countries.

Sub #1 generated U.S. tax losses in TYE #3, #4, and #6 through #10. Sub #2 generated U.S. tax losses in TYE #1, #2, and #4 through #10. Sub #3 generated U. S. tax losses in TYE #1 through #7, #10 and #11. The U.S. tax losses generated by Subs #1, #2, and #3 are dual consolidated losses for U.S. federal income tax purposes. A portion of the losses generated for the years indicated has been included in the consolidated federal income tax return of the Group to reduce the income of the Group.

Taxpayer relied on its internal Tax Department to advise on pertinent elections for the years in question. The Tax Department incorrectly applied § 1.1503-2(g)(2) and (h)(3) to TYE #1 through #6. Also, the Tax Department mistakenly advised that the election described in § 1.1503-2(g)(2) need not be filed for Subs #1 and #2 for TYE #8 through #10, and for Sub #3 for TYE #7, #10 and #11.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards 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) 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 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

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 that is the subject of this ruling request is a regulatory election as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority pursuant to § 301.9100-3 to grant Taxpayer an extension of time, provided that Taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies the standards of § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the certification described in § 1.1503-2A(d)(3) for TYE #3, #4, and #6 for Sub #1; TYE #1, #2, and #4 through #6 for Sub #2; and TYE #1 through #6 for Sub #3, and to replace such certifications with

the agreement described in § 1.1503-2(g)(2) as provided in § 1.1503-2(h)(2)(ii); and to file the agreement described in § 1.1503-2(g)(2)(i) for TYE #8 through #10 for Subs #1 and #2; and for TYE #7, #10 and #11 for Sub #3. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to make the election. § 301.9100 -1(a).

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.

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

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

Sincerely,

Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)