

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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Date:
June 7, 2000

LEGEND

Taxpayer

Subsidiary

Entity #1

Entity #2

Individual A

Date A

Tax Years Y

Dear :

This replies to a letter dated April 3, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2) with respect to losses incurred by Subsidiary and Entity #1 in the tax year ended on Date A; and to file the certification described in § 1.1503-2(g)(2) for the tax year ended on Date A with respect to Entity #1 and #2 for Tax Years Y, as the case may be. Additional information was submitted in letters dated April 7, May 9, and 30, 2000. 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.

Individual A is Tax Counsel for Taxpayer and generally advises Taxpayer and its affiliates on tax matters relating to United States and international taxation. Individual A reviewed the federal income tax returns of Taxpayer for a number of years. During

In re: PLR-109678-00

the course of this review, Individual A determined that Taxpayer's federal tax return for the tax year ended on Date A did not include the election and annual certification required by § 1.1503-2(g)(2). Instead, the election and annual certification had, in error, been filed with the tax return of another affiliate of Taxpayer. Taxpayer is requesting relief before the failure to make the regulatory election and filing was discovered by the IRS.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner may grant a taxpayer a reasonable extension of time to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I under the standards set forth in § 301.9100-3

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.

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, § 1.1503-2(g)(2) fixes the time to file the agreement and certification. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the agreement described in § 1.1503-2(g)(2) with respect to losses incurred by Subsidiary and Entity #1 in the tax year ended on Date A; and to file the certification described in § 1.1503-2(g)(2) for the tax year ended on Date A with respect to Entity #1 and #2 for Tax Years Y, as the case may be. The granting of an extension of time to file the agreement and certification is not a determination that Taxpayer is otherwise eligible to make the election. § 301.9100-1(a).

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.

In re: PLR-109678-00

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.

Sincerely,

/s/ Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)