

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-116040-00

Date:

January 10, 2001

**LEGEND**

Taxpayer =  
Entity =  
Tax Years Ended #1, #2, #3 =  
CPA Firm =

Dear :

This replies to a letter dated August 15, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement and annual certification as described in § 1.1503-2A(c)(3) for the Tax Years Ended #1, #2, and #3. 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.

In Tax Years Ended #1, #2, and #3, Entity incurred losses that were deducted on Taxpayer's U.S. consolidated federal tax returns

Taxpayer's tax department and Taxpayer's tax advisors, CPA Firm, determined that the losses of Entity were not dual consolidated losses under the temporary regulations and, therefore, Taxpayer did not file the agreement and annual certification with respect to the losses of Entity for Tax Years Ended #1, #2, and #3. Later, it was determined that these losses were dual consolidated losses, and agreements and annual certifications should have been filed with respect to them.

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. § 301.9100-1(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

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to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

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 under § 301.9100-1(c) to grant Taxpayer an extension time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies the rules set forth in § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the agreement and annual certification as described in § 1.1503-2A(c)(3) for the Tax Years Ended #1, #2, and #3.

The granting of an extension of time to file the agreements and certifications for the Tax Years Ended #1, #2, #3 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 filing of the agreements and annual 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 representatives.

Sincerely,

/s/ Allen Goldstein \_\_\_\_\_

Reviewer

Office of the Associate Chief Counsel (International)