

Internal Revenue Service

Department of the Treasury
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Person To Contact:

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CC:INTL

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Date:

May 2, 2007

Taxpayer =

Entity 1 =

Entity 2 =

Entity 3 =

Year 1 =

Year 2 =

Year 3 =

aa =

bb =

cc =

dd =

ee =

ff =

gg =

Firm =

Country A =

Dear :

This is in response to a letter dated April 7, 2006, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable and annual certifications under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) or Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) as applicable, for Years 1 through 3 with respect to dual consolidated losses attributable to the Taxpayer's interests in Entities 1 through 3. Additional information for this request was received in a letter dated December 20, 2006. The information submitted for consideration is substantially as set forth below.

Taxpayer states that its own tax department was responsible for preparing the returns for Year 1, Year 2, and Year 3 and that its tax department employed qualified tax professionals on whom Taxpayer relied. In Year 1, Taxpayer's tax department staff did not have any previous experience with the dual consolidated loss rules and filed a dual consolidated loss statement that did not meet the requirements of Treas. Reg. § 1.1503-2T(g)(2)(i). For Year 2, Taxpayer's former Vice President of Tax thought that an election agreement had been filed with the timely filed return. However, upon a later review of the return by his successor, it was discovered that no election agreement had been submitted. For Year 3, Taxpayer filed a dual consolidated loss statement modeled after the statement that it filed for Year 1, and thus it contained the same deficiencies. Taxpayer states that, under these circumstances, its failure to file the elections described below was inadvertent and unintentional. The Taxpayer also represents that it submitted its request under Treas. Reg. § 301.9100-3 for relief to file the elections prior to discovery by the Internal Revenue Service.

The interest in Entity 1 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 1 has activities in Country A that constitute a foreign branch (Entity 1 Branch) within the meaning of Treas. Reg. § 1.367(a)-6T(g). Entity 1 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(A). Dual consolidated losses of Amount aa for Year 1, Amount bb for Year 2 and Amount cc for Year 3 are attributable to Taxpayer's interest in Entity 1 Branch. No dual consolidated losses are attributable to the interest in Entity 1. Taxpayer failed to file proper elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable, for the losses attributable to its interest in Entity 1 Branch.

The interest in Entity 2 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 2 has activities in Country A that constitute a foreign branch (Entity 2 Branch) within the meaning of Treas. Reg. § 1.367(a)-6T(g). Entity 2 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(A). Dual consolidated losses

of Amount dd for Year 1, Amount ee for Year 2 and Amount ff for Year 3 are attributable to Taxpayer's interest in Entity 2 Branch. No dual consolidated losses are attributable to the interest in Entity 2. Taxpayer failed to file proper elections pursuant to Treas. Reg. § 1.1503-2T(g)(2)(i) Treas. Reg. § 1.1503-2(g)(2)(i) for the losses attributable to its interest Entity 2 Branch.

The interest in Entity 3 is a hybrid entity separate unit as described in Treas. Reg. § 1.1503-2(c)(4). Entity 3 has activities in Country A that constitute a foreign branch (Entity 3 Branch) within the meaning of Treas. Reg. § 1.367(a)-6T(g). Entity 3 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(A). Dual consolidated losses of Amount gg for Year 1 attributable to the Entity 3 Branch. No dual consolidated losses are attributable to the interest in Entity 3. Taxpayer failed to file proper elections under Treas. Reg. § 1.1503-2T(g)(2)(i) for the losses attributable to its interest in Entity 3 Branch.

Taxpayer represents that the income tax laws of Country A do not deny the use of losses, expenses, or deductions of Entity 1 Branch, Entity 2 Branch or Entity 3 Branch to offset the income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 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. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 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 filings described in Treas. Reg. § 1.1503-2(g)(2) or Treas. Reg. § 1.1503-2T(g)(2), as applicable, are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a). Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a).

Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the elections for the losses described in this letter attributable to Taxpayer's interest in Entity 1 Branch, Entity 2 Branch and Entity 3 Branch for Years 1 through 3. Taxpayer is not required to file annual certifications with respect to the losses attributable to Entity 1 Branch, Entity 2 Branch or Entity 3 Branch under the facts described herein because Entity 1 Branch, Entity 2 Branch and Entity 3 Branch are separate units described in Treas. Reg. § 1.1503-2(c)(3)(i)(A) and, therefore, an extension of time is not necessary in this regard. Treas. Reg. § 1.1503-2(g)(2)(vi)(C).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreements. Treas. Reg. § 301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file election agreements pursuant to §1.1503-2(c)(15)(iv).

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.

A copy of this ruling letter should be associated with the election agreements that are the subject of this ruling.

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. 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 Taxpayer's authorized representatives.

Sincerely,

Thomas D. Beem
Senior Technical Reviewer, Branch 4
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purposes