

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200737005**

Release Date: 9/14/2007

Index Number: 9100.22-00, 1503.04-04

Person To Contact:

, ID No.

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Refer Reply To:

CC: INTL

PLR-104778-07

Date:

June 19, 2007

Taxpayer =

Entity 1 =

Entity 2 =

Year 1 =

Year 2 =

Country A =

CPA Firm =

Dear :

This is in response to your representative's letter dated January 16, 2007, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) and Treas. Reg. § 1.1503-2T(g)(2)(i) ("Elections") for Year 2 with respect to dual consolidated losses attributable to Taxpayer's interests in Entities 1 and 2. The information submitted for consideration is substantially as set forth below.

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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.

Entity 1 and Entity 2 are both Country A entities that had elected to be treated as an entity separate from its owner prior to Year 2. Taxpayer's interests in Entity 1 and Entity 2 are hybrid entity separate units as described in Treas. Reg. § 1.1503-2(c)(4). Dual consolidated losses attributable to Taxpayer's interests in Entity 1 and Entity 2 were incurred in Year 2.

Taxpayer acquired its interests in Entities 1 and 2 as a result of a restructuring that occurred in Year 1. In connection with the Year 1 restructuring, CPA Firm had advised Taxpayer's predecessor that Elections must be filed with respect to dual consolidated losses attributable to the interests in Entities 1 and 2. As a result of the restructuring, there was nearly a complete turnover of the tax department staff at a subsidiary of Taxpayer's predecessor, which, in addition to third parties, had provided tax and accounting services for Taxpayer's predecessor. Newly hired members of Taxpayer's tax department were unaware of the recommendation to file Elections made by CPA Firm and, therefore, failed to file the Elections required for the Year 2 losses.

Taxpayer represents that the income tax laws of Country A do not deny the use of losses, expenses, or deductions of Entities 1 or 2 to offset 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.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the required Elections. Treas. Reg. § 301.9100-3(b)(1)(i).

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. § 301.9100-1(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.

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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 Elections 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 to make these filings, 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 with respect to the dual consolidated losses attributable to the interest in Entities 1 and 2 incurred in Year 2.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the Elections. 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 Treas. Reg. § 1.1503-2(c)(15)(iv).

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

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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,

Associate Chief Counsel (International)

By: _____
Richard L. Chewning
Senior Counsel
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purposes