

**Internal Revenue Service**

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Person To Contact:  
, ID No.

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Refer Reply To:  
CC:INTL  
PLR-163862-03

Date:  
April 01, 2005

**LEGEND**

Taxpayer =

Individual =

A

Individual =

B

CPA Firm =

1

CPA Firm =

2

Dear :

This replies to a letter dated September 12, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the statements described in § 1.1503-2(g)(2) in accordance with Schedule A, which is attached and made a part of this ruling letter. 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 the vice president and chief financial officer of Taxpayer. As such, Individual A is responsible for all federal tax compliance duties of Taxpayer and its subsidiaries. These duties include reviewing, filing and signing of all federal income tax

returns, and any forms, schedules, or other statements necessary to comply with the Internal Revenue Code.

The tax department of Taxpayer prepared the federal income tax returns for the tax years at issue. Individual A reviewed and signed those returns, and believed that the returns as prepared correctly reported the dual consolidated losses of Taxpayer. However, Individual A was not aware that the statements pursuant to § 1.1503-3(g)(2) were required in order for Taxpayer to properly claim the dual consolidated losses on its tax returns.

Individual B is a partner with CPA Firm 1 and was responsible for its engagement with Taxpayer. This engagement required CPA Firm 1 to review the federal income tax returns prepared by Taxpayer's tax department for the tax years at issue to ensure that all forms, schedules, and statements required by the Code and income tax regulations were appropriately attached to the tax returns. When Individual B reviewed the tax returns, Individual B did not realize that statements pursuant to § 1.1503-2(g)(2) were required to be included with those returns.

CPA Firm 2 was engaged to review Taxpayer's tax return for a tax year subsequent to the tax years at issue. This review, in turn, led to a review of the tax returns at issue, and the determination that the statements pursuant to § 1.1503-2(g)(2) should have been filed with respect to the dual consolidated losses reported on the tax returns at issue.

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 § 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 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 within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, the statements described in § 1.1503-2(g)(2) are regulatory elections as defined in § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards for relief as set forth in § 301.9100-3.

Based on the facts and information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 45 days from the date of this ruling letter to file the statements described in § 1.1503-2(g)(2) in accordance with Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the statements. § 301.9100-1(a).

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

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 your authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein

Reviewer

Enclosures

Schedule A

Copy for 6110 purposes

