

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

[Third Party Communication:

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL

PLR-135732-04

Date:

August 10, 2005

## LEGEND

Taxpayer =

Individual =

A

Individual =

B

CPA Firm =

Tax Year =

X

Tax Year =

Y

Dear :

This replies to your letter dated June 15, 2004, in which you request on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the annual certification described in §1.1503-2(g)(2)(vi)(B) for the entities and tax years listed on Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted in letters dated March 1, 2005, and July 21, 2005. 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 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 states in his affidavit that he is the senior tax manager of Taxpayer, and had the primary responsibility for all applicable years for ensuring that Taxpayer complied with applicable federal income tax laws for each of Taxpayer's international investments. This responsibility included ensuring that all elections and certifications were timely and properly made. Individual A further states that he was aware of the requirement to file an election and agreement under Treas. Reg. §1.1503-2(g)(2)(i) and that this election and agreement was included in the tax return for each year that included dual consolidated losses. However, Individual A also states that he was not aware of the requirement to file the annual certification under §1.1503-2(g)(2)(vi)(B), and that it was not included in any tax return as filed.

With respect to Tax Year X, after Taxpayer filed its consolidated federal income tax return, Taxpayer engaged CPA Firm to review that return as filed and to make Taxpayer aware of any issues including elections or statements that might not have been included. With respect to the consolidated federal income for Tax Year Y, the engagement letter required CPA Firm to review the return and to sign the return as the paid preparer.

Individual B, a partner in the CPA Firm, was the engagement partner responsible for the review of the Tax Year X and Y tax returns. Individual B states in his affidavit that he inadvertently failed to discover that the annual certifications were not included in the tax returns as filed.

Taxpayer represents that the income tax laws of each Country in which the entities listed on Schedule A was a resident does not deny the use of losses, expenses, or deductions of entity to offset income of another person because the dual resident corporation is also subject to income taxation by another country on their respective worldwide income or on a residence basis.

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. §301.9100-1(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. §301.9100-3(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 annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) 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 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 the standards for relief as set forth in Treas. Reg. §301.9100-3. Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the annual certifications described in §1.1503-2(g)(2)(vi)(B) for the entities and tax years listed on Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the annual certifications. 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).

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

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,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of the Associate Chief Counsel (International)

Enclosures (2):

Schedule A

Copy for 6110 purposes