

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-171525-03

Date:
September 09, 2005

LEGEND

- Taxpayer =
- Target =
- Corporation =
- LLC =
- Tax Year A =
- Date B =
- Country X =
- CPA Firm =
- Tax Manager =
- Tax Professional =

Dear :

This replies to your representative’s letter dated November 30, 2003, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the election and agreement described in §1.1503-2(g)(2)(i) pursuant to the requirement in §1.1503-2(g)(2)(iv)(B)(2)(iii) for Tax Year A with respect to the dual consolidated losses incurred by LLC. 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.

On Date B, Target Corporation, a domestic corporation, merged into Taxpayer, a domestic corporation. On that date, Target Corporation owned LLC. LLC was a partnership for U.S. tax purposes and a corporation for Country X purposes. In years prior to the merger, LLC incurred dual consolidated losses. Those losses were included by Target Corporation in its federal income tax returns. Target filed with those returns the elections and agreements and the annual certifications required by Treas. Reg. §1.1503-2(g)(2)(i) and (vi)(B). The merger of Target Corporation into Taxpayer constituted a triggering event described in §1.1503-2(g)(2)(iii) with respect to those losses.

Because Taxpayer's Tax Manager had little experience in international taxation, Taxpayer engaged CPA Firm to review Taxpayer's consolidated federal income tax return for Tax Year A. In particular, Tax Manager relied upon CPA Firm for advice regarding international tax compliance matters.

The Tax Professional at CPA Firm advised Taxpayer about the requirement in Treas. Reg. §1.1503-2(g)(2)(iv)(B)(2)(i) to enter into a closing agreement with the Service to avoid triggering LLC's dual consolidated losses. However, the Tax Professional failed to advise Taxpayer of the requirement in §1.1503-2(g)(2)(iv)(B)(2)(iii) that Taxpayer file an agreement described in §1.1503-2(g)(2)(i) with its timely filed income tax return for Tax Year A.

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 election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i) 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 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 election and agreement described in §1.1503-2(g)(2)(i) pursuant to the requirement in §1.1503-2(g)(2)(iv)(B)(2)(iii) for Tax Year A with respect to the dual consolidated losses incurred by LLC.

The granting of this extension of time is not a determination that Taxpayer is otherwise eligible to file the election and agreement. Treas. Reg. §301.9100-1(a). In addition, the granting of this extension of time is not a determination that Taxpayer has satisfied all of the requirements of §1.1503-2(g)(2)(iv)(B)(2) to avoid triggering LLC's dual consolidated losses.

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

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/ Richard L. Chewning
Richard L. Chewning
Senior Counsel
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purposes

cc: