

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

In re:

Refer Reply To:
CC:INTL:PLR-110208-00
Date:
January 12, 2001

LEGEND

- Taxpayer =
- Foreign Business =
- Foreign Country =
- Individual A =
- Individual B =
- Date A =
- Date B =

Dear :

This replies to a letter dated April 19, 2000 in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file, for the tax year ended on Date B, the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated loss incurred in the tax year ended on Date A. Additional information was submitted in a letter dated January 4, 2001. 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.

For the tax year ended on Date A, Taxpayer incurred a net operating loss in its Foreign Business located in Foreign Country. Taxpayer attached the agreement required by § 1.1503-2(g)(2)(i) with its timely filed U.S. consolidated income tax return for the tax

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year ended on Date A.

Taxpayer should have filed the annual certification required by § 1.1503-2(g)(2)(vi)(B) relating to the dual consolidated loss for the tax year ended on Date A with its U.S consolidated income tax return for the tax year ended on Date B. However, during the time in which the tax return was being prepared, Taxpayer underwent a restructuring of its business operations, which included the tax department. Individual A, an attorney in the tax department, who was responsible for the preparation, review and filing of all necessary certifications and elections, was transferred out of the tax department and was replaced by Individual B. Individual B did not realize that an annual certification relating to the dual consolidated loss for the tax year ended on Date A was necessary. Consequently, the tax return for the tax year ended on Date B was filed without the annual certification. To the best of the knowledge of Taxpayer, this request for relief is being filed before the failure to file the annual certification is discovered by the Service.

Treas. Reg. § 301.9100 -1(b) 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 the 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, and the grant of relief will not prejudice the interests of the Government.

In the present situation, § 1.1503-2(g)(2)(vi)(B) fixes the time to file the annual certification. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file, for the tax year ended on Date B, the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated loss incurred in the tax year ended on Date A. The granting of an extension of time to file the annual certification is not a determination that Taxpayer is otherwise eligible to file the annual certification. § 301.9100-1(a).

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. A copy of this ruling letter

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should be attached to the annual certification.

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 letter is being sent to the Taxpayer and the other authorized representative.

Sincerely,

/s/ Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)