

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-120314-04

Date:
August 31, 2005

LEGEND

- Taxpayer =
- Entity X =
- Entity Y =
- Tax Year One =
- Tax Year Two =
- Tax Year Three =
- Tax Year Four =
- Tax Year Five =
- Country A =

Dear :

This replies to your representative's letter dated March 23, 2004, 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), and the annual certification described in § 1.1503-2(g)(2)(vi)(B), with respect to the Entities X and Y for the tax years indicated below:

	Tax Year One	Tax Year Two	Tax Year Three	Tax Year Four	Tax Year Five
Entity X	A	A/B	A/B	A/B	A/B
Entity Y	Not applicable	Not applicable	A	A/B	A/B

LEGEND

A = A ruling is requested to file the election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i).

B = A ruling is requested to file the annual certification statement described in Treas. Reg. §1.1503-2(g)(2)(vi)(B).

Additional information was furnished on August 24, 2004, February 15 and 28, 2005, and March 7, 2005. The information submitted 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.

Taxpayer, a domestic corporation, formed Entity X in Country A. In Tax Year One, Entity X elected to be treated as a disregarded entity for federal income tax purposes. Entity X incurred dual consolidated losses in each of the Tax Years One through Five.

In Tax Year Three, Entity Y was formed in Country A. Entity Y was granted relief under Treas. Reg. §301.9100-3 to elect to be treated as a partnership for federal income tax purposes beginning in that same tax year. Entity Y incurred dual consolidated losses in Tax Years Three, Four, and Five.

The facts and affidavits submitted show that Taxpayer's tax advisors did not advise Taxpayer that elections and agreements, and annual certifications, as described in Treas. Reg. §1.1503-2(g)(2)(i) and (vi)(B) and as set forth above were required to be filed by Taxpayer in order to be able to deduct the dual consolidated losses incurred by Entity X and Entity Y in Tax Years One through Five.

Taxpayer represents that the income tax laws of Country A do not deny the use of losses, expenses, or deductions of Entity X or Entity Y 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.

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 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, the election and agreement, and the annual certification described in Treas. Reg. §1.1503-2(g)(2)(i) and (vi)(B), respectively, 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 rules set forth in §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 and agreements described in §1.1503-2(g)(2)(i), and the annual certifications described in §1.1503-2(g)(2)(vi)(B) with respect to Entity X and Entity Y for Tax Years One through Five as set forth above.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and 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 an election agreement pursuant to §1.1503-2(c)(15)(iv).

A copy of this ruling letter should be associated with the elections and agreements, and 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.

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