

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-107671-01

Date:
May 14, 2001

LEGEND

- Taxpayer =
- Corporation A =
- Corporation B =
- Branch =
- Seven tax years ended on the dates enumerated =
- Tax Year One =
- Individuals A and B =
- CPA Firm =
- Country Y =
- Date A =

Dear :

This replies to a letter dated February 2, 2001, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement under § 1.1503-2(g)(2)(i) as required by § 1.1503-2(g)(2)(iv)(B)(2)(iii) for the seven tax years ended on the dates enumerated for the taxable year in which the event described in § 1.1503-2(g)(2)(iv)(B)(1) occurred. The information submitted for consideration is substantially as set forth below.

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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.

From its incorporation in Tax Year One, Corporation A owned all of the shares of Corporation B, which conducted business in Country Y through Branch. Branch sustained losses for the seven tax years ended on the dates enumerated. These losses were not and have not been used to offset the income of any other persons under the laws of Country Y or any other foreign country.

As a result of a nontaxable transaction on Date A, Taxpayer became the common parent of a new affiliated group that included Corporations A and B. The transaction constituted a triggering event as defined in §1.1503-2A(c)(3)(iii)(B)(2) and §1.1503-2(g)(2)(iii)(A)(2).

Individual A is the tax director for Taxpayer, and was unsure of the procedure involved in entering into a closing agreement with the Internal Revenue Service as provided under § 1.1503-2(g)(2)(iv)(B)(2)(i) so that the transaction would not constitute a triggering event. Individual A consulted with Individual B, an international tax partner with CPA Firm. On the advice of Individual B, Taxpayer filed a statement evidencing its intention to enter into a closing agreement. The IRS after reviewing the closing agreement advised Taxpayer that it failed to file the agreement under § 1.1503-2(g)(2)(i) as required by § 1.1503-2(g)(2)(iv)(B)(2)(iii). However, Taxpayer was not advised by Individual B to file the agreement under § 1.1503-2(g)(2)(i).

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)(iv)(B)(2)(iii) fixes the time to file the agreement under § 1.1503-2(g)(2)(i). Therefore, the Commissioner has discretionary

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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 the agreement under § 1.1503-2(g)(2)(i) as required by § 1.1503-2(g)(2)(iv)(B)(2)(iii) for the seven tax years ended on the dates enumerated for the taxable year in which the event described in § 1.1503-2(g)(2)(iv)(B)(1) occurred. The granting of an extension of time to file the agreement is not a determination that Taxpayer is otherwise eligible to file the agreement. § 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.

No ruling is expressed regarding the application of any section of the Code or regulations other than the above rulings which you have specifically requested. A copy of this ruling letter should be attached to the agreement.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to Taxpayer and the other authorized representative.

Sincerely,
/s/ Allen Goldstein
Reviewer
Office of the Associate Chief Counsel (International)