

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200548001**

Release Date: 12/2/2005

Index Number: 9100.22-00, 1503.04-04

[Third Party Communication:
Date of Communication: Month DD, YYYY]

Person To Contact: _____, ID No. _____

Telephone Number: _____

In Re:

Refer Reply To:
CC:INTL:B02
PLR-105442-03
Date:
August 29, 2005

LEGEND

Taxpayer =
Individual A =
Individual B =
Tax Advisor =
Year C =
Date D =

Dear _____ :

This replies to a letter dated December 20, 2002 in which Taxpayer requests 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) in accordance with Schedule A, which is attached to and made a part of this ruling letter. Additional information was submitted in a letter dated June 3, 2005. The information submitted for consideration is substantially as set forth below.

Individual A has held various positions with the predecessor companies of Taxpayer and has held the position of tax counsel since Year C. Individual B is a tax partner with Tax Advisor. On Date D a triggering event occurred with respect to the dual consolidated losses of Taxpayer. In conjunction with preparation of the closing agreement, Tax Advisor reviewed the dual consolidated loss filings for all prior years and discovered issues with some of the certifications. In an affidavit, Individual A states that ambiguities in the regulations with respect to filing requirements for partnerships resulted in reporting inaccurate amounts in some instances and in the failure to file certifications that should have been filed in other instances. Individual B confirms in an affidavit that it was in conjunction with filing the request for a closing agreement that Tax Advisor identified these discrepancies. Individual B further states that Taxpayer reasonably relied on Tax Advisor to make the necessary filings and when it was

determined there was a more accurate interpretation of the filing requirements, Tax Advisor recommended seeking relief under §301.9100 to rectify the situation.

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, 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, the election agreement and annual certification described in §1.1503-2(g)(2) 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 §301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 45 days from the date of this ruling letter to file the election agreements described in §1.1503-2(g)(2)(i), and the annual certifications described in §1.1503-2(g)(2)(vi)(B) in accordance with Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreements and annual certifications. §301.9100-1(a).

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, including the information listed on Schedule A which has been made a part of this ruling letter, may be required as a part of the audit process.

A copy of this ruling letter should be associated with the election agreements and 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 Taxpayer and the other authorized representative.

Sincerely,

Thomas D. Beem
Senior Technical Reviewer, Branch 4
Office of Associate Chief Counsel (International)

Enclosure: Schedule A

cc:

SCHEDULE A

Taxpayer requested an extension of time to file the election and agreement described in Treas. Reg. § 1.1502-2T(g)(2)(i) (indicated in the table below as “g2”) and/or the annual certification described in Treas. Reg. § 1.1503-2T(g)(2)(vi)(B)(indicated in the table below as “ac”) with respect to the dual resident corporations and separate units shown below. The years shown in the table indicate the tax return on which the election, agreement, or certification should have been filed.

| Dual Resident Corporation or Separate Unit | | | | | | | |
|--|----|-------|-------|-------|-------|-------|----|
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | g2/ac | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | g2/ac | |
| | | | | g2 | g2/ac | g2/ac | |
| | | | | g2 | g2/ac | g2/ac | ac |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | | |

| Dual Resident Corporation or Separate Unit | | | | | | | |
|--|----|-------|-------|-------|-------|--|--|
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | | |
| | | | | g2 | g2/ac | | |
| | | | | g2 | g2/ac | | |
| | | | | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | | |
| | | | | g2 | g2/ac | | |

| | | | | | | | |
|---|----|-------|-------|-------|-------|-------|----|
| Dual Resident Corporation or Separate Unit | | | | | | | |
| | | | | | | | |
| | | | | g2 | g2/ac | | |
| | | | | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | g2/ac | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | g2/ac | g2/ac | |
| | | | | g2 | g2/ac | g2/ac | |
| | | | | g2 | g2/ac | g2/ac | |
| | | | | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | ac | ac | ac |
| | g2 | g2/ac | g2/ac | | | | |

| Dual Resident Corporation or Separate Unit | | | | | | | |
|--|----|------------------|-------|-------|----|----|----|
| | g2 | g2/ac | g2/ac | | | | |
| | g2 | g2/ac | g2/ac | g2/ac | ac | ac | ac |
| | | | | g2 | ac | ac | ac |
| | | | | g2 | ac | ac | ac |
| | | g2/ac (12/31) | ac | g2/ac | ac | ac | ac |
| | | | | | | | |
| | | ac | ac | ac | ac | ac | ac |