

In re: PLR-152148-06

Taxpayer failed to include the elections and agreements required under Treas. Reg. § 1.1503-2T(g)(2)(i) for Years 1 and 2 and the annual certification required under Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) for Year 2 with those returns primarily because of key personnel changes in Taxpayer's tax department in those years.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the elections and agreements required under Treas. Reg. § 1.1503-2T(g)(2)(i) for Years 1 and 2 and the annual certification required under Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) for Year 2. Treas. Reg. § 301.9100-3(b)(1)(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, 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 Treas. Reg. § 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 Treas. Reg. § 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 elections and agreements required under Treas. Reg. § 1.1503-2T(g)(2)(i) for Years 1 and 2 and the annual certification required under Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) for Year 2 are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 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 required under Treas. Reg. § 1.1503-2T(g)(2)(i) for Years 1 and 2 and the annual certification required under Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) for Year 2 for the dual consolidated losses attributable to Taxpayer's interest in Entity 1 for Years 1 and 2.

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

A copy of this ruling letter should be associated with the election agreements and the annual certifications that are the subject of this ruling.

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's authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: _____
Richard L. Chewning
Senior Counsel
Office of the Associate Chief Counsel (International)

Enclosure:
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