

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: INTL
PLR-112642-07

Date:

July 30, 2007

Taxpayer =

Domestic Owner =

Entity 1 =

Entity 2 =

Year 1 =

Year 2 =

Year 3 =

Year 4 =

Country A =

CPA Firm =

Dear :

This is in response to a letter dated March 9, 2007, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable (“Elections”), and annual certifications under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) or Treas. Reg. § 1.1503-2T(g)(2)(vi)(B) as applicable (“Annual Certifications”), for Years 1 through 4 with respect to dual

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consolidated losses attributable to Entity 2's operations. Additional information was received in a letter dated June 11, 2007. 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.

Taxpayer owns 100 percent of the stock of Domestic Owner, a domestic corporation that is a member of Taxpayer's consolidated group. Domestic Owner owns 100 percent of the interests of Entity 1, an entity incorporated in Country A which, in turn, owns 100 percent of the interests of Entity 2, which is also an entity incorporated in Country A. Prior to the beginning of Year 1, Entity 1 and Entity 2 elected to be disregarded as entities separate from their owners, and were treated as disregarded entities throughout Years 1 through 4.

The interests in Entity 1 and Entity 2 are hybrid entity separate units as described in Treas. Reg. § 1.1503-2(c)(4). Entity 2 has activities in Country A that constitute a foreign branch ("Entity 2 Branch") within the meaning of Treas. Reg. § 1.367(a)-6T(g). Entity 2 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A).

Dual consolidated losses were attributable to Entity 2 Branch during Years 1 through 4. No dual consolidated losses were attributable to the interests in Entity 1 or Entity 2 for Years 1 through 4.

Taxpayer's tax department prepared the consolidated income tax returns for Years 1 through 4. Taxpayer's tax manager was responsible for preparing the returns for Years 1 through 4. Taxpayer's tax manager was unaware of the requirement to file Elections with respect to dual consolidated losses incurred by Entity 2 Branch. Moreover, Taxpayer's tax manager was not advised by CPA Firm of the need to file such Elections.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the required Elections. Treas. Reg. § 301-9100-3(b)(1)(i).

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. §

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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 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 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 to make these filings, 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 with respect to the dual consolidated losses attributable to Entity 2 Branch in Years 1 through 4.

Taxpayer is not required to file annual certifications with respect to losses attributable to Entity 2 Branch because Entity 2 Branch is a separate unit described in Treas. Reg. § 1.1503-2(c)(3)(i)(A) and, therefore, an extension of time is not necessary in this regard. Treas. Reg. § 1.1503-2(g)(2)(vi)(C).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the Elections.

For the taxable year immediately prior to Year 1, Taxpayer failed to file an Election under Treas. Reg. § 1.1503-2(g)(2)(i) with respect to a dual consolidated loss attributable to Entity 2 Branch in such year. Taxpayer did not request relief for such filing, however, because the period for assessment and collection of tax for such year has expired under the rules of I.R.C. § 6501, and no portion of the dual consolidated loss was included in a net operating loss that carried forward to a taxable year for which such period has not expired.

A copy of this ruling letter should be associated with the Elections that are the subject of this ruling.

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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,

John J. Merrick
Special Counsel
Office of Associate Chief Counsel
(International)

Enclosure:
Copy for 6110 purposes