

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

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Refer Reply To:

In re:

**CC:INTL:PLR-116233-00**  
Date:  
February 15, 2001

**LEGEND**

Taxpayer =  
Entity =  
Individual A =  
CPA Firm =  
Tax Years Ended =

Dear :

This replies to a letter dated August 18, 2000, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement described in § 1.1503-2(g)(2)(i) for the Tax Years Ended #1, #2, and #3, and to file the annual certification described in § 1.1503-2(g)(2)(vi) for the Tax Years Ended #1 and #2. Additional information was submitted in a letter dated February 5, 2001. 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.

In Tax Years Ended #1, #2, and #3, Entity generated losses, and a portion of the losses for each year were included in the consolidated U.S. federal income tax return of Taxpayer.

Individual A is the Tax Director of Taxpayer and failed to file the agreement and annual certification pursuant to § 1.1503-2(g)(2) for the Tax Years Ended #1, #2, and #3. Individual A also failed to advise Taxpayer that the agreements and annual certifications were necessary. Taxpayer did not file the agreements and annual certifications, and is requesting relief before the failure to file them is discovered by the Service.

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.

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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 agreement and annual certification 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 circumstances of this case, we conclude that Taxpayer satisfies the standards of § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 30 days from the date of this ruling letter to file the agreement described in § 1.1503-2(g)(2)(i) for the Tax Years Ended #1, #2, and #3, and to file the annual certification described in § 1.1503-2(g)(2)(vi) for the Tax Years Ended #1 and #2. The granting of an extension of time to file the agreements and annual certifications is not a determination that Taxpayer is otherwise eligible to file the agreements and certifications. 301.9100 -1(a).

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.

A copy of this ruling letter should be associated with the 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.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to the Taxpayer.

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