

**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-118739-02

Date:

May 12, 2003

LEGEND

Taxpayer =

Entity =

Date 1 and 2 =

CPA Firm =

Dear :

This replies to a letter dated March 26, 2002, requesting that Taxpayer be granted an extension of time under Treas. Reg. § 301.9100-3 to file the election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses of Entity incurred in the tax year ended on date 1; and to file with the income tax return ended on date 1 the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entity in the tax year ended on date 2. Additional information was submitted on March 23, 2003. The information submitted for consideration is substantially as set forth below.

In re: PLR-118739-02

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 is the parent of an affiliated group of corporations sometimes referred herein as the "Taxpayer group". The facts submitted state that neither Entity nor any member of the Taxpayer group had an internal tax department or senior tax accountants on staff. The facts also state that the Taxpayer group relied on CPA Firm to prepare the group's annual U.S. federal income tax return and to advise it as to any applicable elections. The CPA Firm failed to advise the Taxpayer group of (1) the election and agreement needed for the tax year ended on Date 1, and (2) the certification needed for the tax year ended on Date 1 with respect to the dual consolidated losses incurred by Entity in the tax year ended on Date 2.

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. § 301.9100-1(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 and agreement and the 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).

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Based on the facts and information submitted, 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 election and agreement described in § 1.1503-2(g)(2)(i) with respect to the dual consolidated losses of Entity incurred in the tax year ended on date 1; and to file with the income tax return ended on date 1 the annual certification described in § 1.1503-2(g)(2)(vi)(B) with respect to the dual consolidated losses incurred by Entity in the tax year ended on date 2.

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

A copy of this ruling letter should be associated with the election and the annual certification.

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 your authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein

Allen Goldstein  
Reviewer

Enclosure:

Copy for § 6110 purposes