

**Internal Revenue Service**

Department of the Treasury  
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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL  
PLR-137854-04

Date:  
August 17, 2005

**LEGEND**

Taxpayer =

Entity A =

Entity B =

Entity C =

Date A =

Date B =

Date C =

Date D =

Date E =

Individual A =

Foreign Country =

A

Foreign Country =

B

Dear :

This replies to your representative's letter dated June 29, 2004, in which your representative requests on behalf of Taxpayer 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) for the entities and tax years listed on Schedule A, which is attached to and made a part of this ruling letter. The letter dated June 29, 2004, was amended by letters dated April 11, 2005, and April 19, 2005. 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 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 common parent of a consolidated group. On Date A, Taxpayer elected under Treas. Reg. §301.7701-3(c) to treat Entity A and Entity B as disregarded entities. On Date B, Taxpayer elected under Treas. Reg. §301.7701-3(c) to treat Entity C as a disregarded entity. Taxpayer represents that Entities A, B and C each incurred losses in the tax years ended on Dates C and D, and Entity A and C each incurred losses in the tax year ended on Date E. These losses were reported in the respective tax year of Taxpayer's consolidated return. During the tax year ended on Date D, Taxpayer sold its interest in Entity B.

Individual A is Taxpayer's director of taxes. Individual A prepared and filed Taxpayer's consolidated returns for the fiscal years ended on Dates C, D and E, and was responsible for filing complete and accurate tax returns. In his affidavit, Individual A states that he was unaware that the losses incurred by Entities A, B and C were dual consolidated losses within the meaning of Treas. Reg. § 1.1503-2(c)(5)(i), and that elections pursuant to § 1.1503-2(c)(2)(i) were required to use such losses in Taxpayer's consolidated returns. Individual A believed that those losses naturally flowed into the tax returns by virtue of the fact that the three entities were disregarded entities for U.S. federal income tax purposes.

Taxpayer represents that the income tax laws of Foreign Country A do not deny the use of losses, expenses, or deductions of Entity A and Entity B to offset income of another person because the separate units are also subject to income taxation by another country on their worldwide income or on a residence basis.

Taxpayer represents that the income tax laws of Foreign Country B do not deny the use of losses, expenses, or deductions of Entity C to offset income of another person because the separate units is also subject to income taxation by another country on its worldwide income or on a residence basis.

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. §301.9100-1(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 §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 described in Treas. Reg. §1.1503-2(g)(2)(i) and (vi)(B), respectively, 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 the rules set forth in 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 election and agreement described in §1.1503-2(g)(2)(i), and the annual certification described in §1.1503-2(g)(2)(vi)(B) for the entities and tax years listed on Schedule A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements, and the annual certifications. Treas. Reg. §301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file the election agreement pursuant to §1.1503-2(c)(15)(iv).

A copy of this ruling letter should be associated with the elections and agreements, and the 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 your authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Meryl Silver

Meryl Silver

Reviewer

Office of the Associate Chief Counsel (International)

Enclosures (2):

Schedule A

Copy for 6110 purposes

SCHEDULE A

A = A ruling is requested to file the election and agreement described in Treas. Reg. § 1.1503-2(g)(2)(i).

B = A ruling is requested to file the annual certification described in Treas. Reg. § 1.1503-2(g)(2)(vi)(B).

	A	A/B	A/B
	A	A/B	n/a
	A	A/B	A/B