

**Internal Revenue Service**

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

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Refer Reply To:  
CC:INTL  
PLR-112152-05

Date:  
September 27, 2005

**LEGEND**

- Taxpayer =
- Entity A =
- Entity B =
- FYE1 =
- FYE2 =
- FYE3 =
- Foreign Country =
- X
- Foreign Country =
- Y
- Individual A =
- Individual B =
- CPA Firm =

Dear :

This replies to your representative's letter dated February 23, 2005, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the annual certifications described in §1.1503-2(g)(2)(vi)(B) for FYE3 relating to the dual consolidated losses incurred by Entities A and B in FYE1 and FYE2. Additional information was submitted in a letter dated September 8, 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 this request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Entities A and B, which are corporations under the laws of Foreign Country X and Y, respectively, elected to be treated as disregarded entities under Treas. Reg. §301.7701-3(a). As such, each is a hybrid entity separate unit as defined in §1.1503-2(c)(4). Each Entity incurred in FYE1 and FYE2 dual consolidated losses as defined in §1.1503-2(c)(5).

Individual A, Taxpayer's Vice-President of Taxes, prepared Taxpayer's international tax filings for FYE3. CPA Firm did not assist the Taxpayer or Individual A in preparing those filings. However, Individual A relied on the international tax filings that CPA Firm prepared for FYE2 as a guide in preparing the tax filings for FYE3.

While preparing a request for relief under Treas. Reg. §301.9100-1(c) in connection with Taxpayer's consolidated federal income tax return for FYE2, Individual B, a tax professional with CPA Firm, reviewed the international tax filings that Individual A included with Taxpayer's consolidated federal income tax return for FYE3. Individual B discovered that the FYE3 consolidated return did not contain the annual certifications required under Treas. Reg. §1.1503-2(g)(2)(vi)(B) in connection with the dual consolidated losses incurred by Entities A and B in FYE1 and FYE2. That discovery led Taxpayer to request this relief to file those annual certifications.

Taxpayer represents that the income tax laws of Foreign Country X do not deny the use of losses, expenses, or deductions of Entity A to offset income of another person because the dual resident corporation or separate unit 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 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 within the meaning of §301.9100-3(b), subject to the

conditions set forth in §301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of §301.9100-3(c).

In the present situation, the annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B) is a regulatory election 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 standards for relief as set forth in §301.9100-3.

Based on the facts and representations 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 annual certifications described in §1.1503-2(g)(2)(vi)(B) for the consolidated federal income tax return for FYE3 relating to the dual consolidated losses incurred by Entities A and B in FYE1 and FYE2.

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

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

This ruling is directed only to 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/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of Associate Chief Counsel (International)

Enclosure:

Copy for 6110 purposes

cc: