

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-112806-99

Date:

February 16, 2000

LEGEND

- Taxpayer =
- Entity =
- CPA Firm =
- Individual A =
- Date A =

Dear :

This replies to a letter dated July 14, 1999, as supplemented by a letter dated December 13, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election, agreement and certifications required under Treas. Reg. § 1.1503-2(g)(2) with respect to Entity for the tax year ended on Date A. 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.

Entity incurred a net operating loss, which Taxpayer took into account in computing its consolidated taxable income for the tax year ended on Date A. Individual A was a manager with CPA Firm and was responsible for ensuring that all the requirements under § 1.1503-2(g)(2) for taking such loss were satisfied. For various reasons, Individual A inadvertently failed to file the election statement, agreement and certifications with Taxpayer's tax return for the tax year ended on Date A.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E,

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G, H, and I.

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.

Treas. Reg. § 301-9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

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, § 1.1503-2(g)(2) fixes the time to elect relief. Therefore, the Commissioner has discretionary authority under § 301.9100–1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, 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, agreement and certifications required under § 1.1503-2(g)(2) with respect to Entity for the tax year ended on Date 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 election, agreement and 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 your authorized representative.

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