Internal Revenue Service

Number: **200546031**
Release Date: 11/18/2005
Index Number: 9100.22-00, 1503.04-04

Department of the Treasury
Washington, DC 20224

[Third Party Communication:
Date of Communication: Month DD, YYYY]

Person To Contact:
                    , ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-132912-04
Date:
August 15, 2005

LEGEND

Taxpayer   =

Entity   =
Individual   =
A
CPA Firm   =
Date A   =
Date B   =
Year X   =
Year Y   =

Dear   :

This replies to your representative's letter dated June 15, 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) relating to the reporting of dual consolidated losses incurred by Entity in the tax year ended on Date A. (Hereinafter, the tax year ended on Date A may be referred to as Year X.) 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 owned and carried on business operations through Entity, which was a foreign corporation. Taxpayer elected to treat Entity as a disregarded entity for federal

income tax purposes and filed a Form 8832 electing such treatment effective on Date B, which date was prior to Year X. Entity is a dual resident corporation under Treas. Reg. § 1.1503-2(c).

Entity incurred a loss for the tax year ended on Date A, and this loss was included in the consolidated income tax return of Taxpayer for that tax year.

Taxpayer engaged the services of CPA Firm to prepare and review Taxpayer's federal income tax return for Year X. Therefore, Taxpayer relied on CPA to ensure that Taxpayer's federal income tax return for Year X included all required forms, elections and/or agreements to properly reflect the intended treatment of Entity's dual consolidated losses.

Individual A is a partner with CPA Firm, and was the managing partner responsible for the individuals involved with the tax engagement for Taxpayer. When this staff reviewed the tax return for Year X, the staff did not realize that an election and agreement described in Treas. Reg. 1.1503-2(g)(2)(i) should have been included with the tax return. As a result, the tax return was filed without the election and agreement.

The facts and affidavits submitted describe the circumstances that led to the discovery that the election and agreement was not filed. Upon this discovery, CPA Firm and Taxpayer decided to request relief to remedy the missed filing.

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 election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i) 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 information 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 election and agreement described in §1.1503-2(g)(2)(i) relating to the reporting of dual consolidated losses incurred by Entity in the tax year ended on Date A.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements. Treas. Reg. §301.9100-1(a).

The facts indicate that Entity incurred a loss in Year Y. The facts also indicate that Taxpayer filed with its tax return for Year Y the election and agreement described in Treas. Reg. § 1.1503-2(g)(2)(i) with respect to the Year Y loss, and the annual certification described in §1.1503-2(g)(2)(vi)(B) with respect to the Year X loss. Taxpayer asks if relief is deemed necessary with respect to the annual certification filed with the tax return for Year Y. Assuming that the annual certification filed with the Year Y tax return was timely filed, relief is not necessary as § 301.9100 applies to elections, including an annual certification, that have not been timely filed.

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

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/ Meryl Silver
Meryl Silver
Reviewer

Enclosure
Copy for 6110 purposes