

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-126239-04

Date:
August 03, 2005

LEGEND

Taxpayer =

Branch =
Country Y =
Individual A =
CPA Firm =
Tax Year One =
Tax Year Two =

Dear :

This replies to your representative's letter dated April 30, 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 Branch in Tax Year One and Tax Year Two. Additional information was submitted in a letter dated July18, 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.

Branch is located in Country Y. Branch is not a “hybrid entity separate unit” under Treas. Reg. § 1.1503-2(c)(4). Branch incurred net operating losses in Tax Year One and Tax Year Two. These losses are dual consolidated losses as described in § 1.1503-2(c)(5). Taxpayer included the losses in its consolidated federal income tax return for Tax Year One and Tax Year Two.

CPA Firm has provided tax compliance and consulting services to Taxpayer for many years, and Individual A is a tax professional with CPA Firm. Taxpayer engaged CPA Firm to prepare its consolidated income tax returns for Tax Year One and Tax Year Two, including the preparation of elections and disclosures.

Individual A believed that the net operating losses incurred by Branch did not constitute “dual consolidated losses” (“DCL”) as defined by Treas. Reg. § 1.1503-2(c)(5)(ii)(A), when Taxpayer’s tax returns for Tax Year One and Tax Year Two were filed. Therefore, an election and agreement described in § 1.1503-2(g)(2)(i) was not attached to these tax returns.

Subsequently, Individual A became aware of the Internal Revenue Service’s interpretation of the DCL regulations pursuant to which the net operating losses of Branch would be considered DCLs subject to the reporting requirements of Treas. Reg. § 1.1503-2(g)(2)(i). Accordingly, Individual A informed Taxpayer to obtain 9100 relief to file the missed elections.

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 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 dual consolidated losses incurred by Branch in Tax Year One and Tax Year Two.

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).

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
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