

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-100068-00
Date:
July 6, 2000

LEGEND

- Taxpayer =
- Subsidiary =
- Branch =
- Country A =
- CPA Firm =
- Date A =

Dear :

This replies to a letter dated December 23, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the agreement and certifications described in § 1.1503-2(g)(2) 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.

Taxpayer is the common parent of a U.S. affiliated group that filed a consolidated federal income tax return for the tax year ended on Date A. Taxpayer wholly owns Subsidiary, which has a branch operation ("Branch") in Country A, and which generated losses in the tax year ended on Date A.

You state that Branch is treated as a separate unit under the provisions of IRC § 1503(d) and the regulations thereunder for the tax year ended on Date A. The Date

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A consolidated federal income tax return for Taxpayer and its subsidiaries included the operations of Branch.

Taxpayer relied on CPA Firm to prepare its U.S. federal income tax return, including any elections, for the tax year ended on Date A. The tax return was filed consistent with the election under § 1.1503-2(g)(2) having been made, but CPA Firm inadvertently did not include the election statement with the tax return. The IRS has not discovered Taxpayer's failure to timely file the required agreement and certifications.

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

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.

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 file the agreement and certifications. 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 agreement and certifications described in § 1.1503-2(g)(2) for the tax year ended on Date A. The granting of an extension of time to file the agreement and certifications is not a determination that Taxpayer is otherwise eligible to make the election. § 301.9100-1(a).

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.

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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 letter is being sent to your authorized representatives.

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