

Internal Revenue Service

Department of the Treasury

Index Number: 9100.22-00
1503.04-04

Washington, DC 20224

Number: **200003025**
Release Date: 1/21/2000

Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-110895-99
Date:

October 25, 1999

LEGEND

- Taxpayer =
- DRC =
- Date A =
- Date B =
- Firm A =
- Firm B =
- Individual A =

Dear :

This replies to your letter dated June 10, 1999, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file (1) the agreement required by § 1.1503-2(g)(2)(i) with respect to the losses of DRC reflected in the U.S. consolidated tax return of Taxpayer for the tax years ended on Dates A and B; and (2) the annual certification required by § 1.1503-2(g)(2)(vi) with respect to the dual consolidated losses incurred in 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.

For the tax years ended on Dates A and B, DRC incurred losses that were reflected on

PLR-110895-99

the consolidated tax returns of Taxpayer.

Taxpayer did not prepare its own consolidated tax returns for the tax years ended on Dates A and B. Instead, the tax returns were prepared by Firm A for the tax year ended on Date A, and by Firm B for the tax year ended on Date B. Individual A was the tax practitioner who was in charge of Taxpayer's tax return preparation during the entire period that is relevant to this request as the tax practice of Firm A was acquired by Firm B. In reviewing the tax returns for the tax years ended on Dates A and B, Individual A did not research the application of the dual consolidated loss rules to these returns. Individual A later learned of the failure to file the election and certification from the manager assigned to Taxpayer's tax return.

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, 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 file the agreement and certification. 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 (1) the agreement required by § 1.1503-2(g)(2)(i) with respect to the losses of DRC reflected in the U.S. consolidated tax return of Taxpayer for the tax years ended on Dates A and B; and (2) the annual certification required by § 1.1503-2(g)(2)(vi) with respect to the dual consolidated losses incurred in

PLR-110895-99

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 agreement and certification.

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 ruling letter is being sent to your authorized representative.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)