

Internal Revenue Service

Department of the Treasury

Number: **200137054**
Release Date: 9/14/2001
Index Number: 1502.20-00
9100.28-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:CORP:1-PLR-114116-01
Date:
June 15, 2001

LEGEND:

Corporation X =

Country =

Parent =

Sub =

Parent Official =

Tax Professional =

Taxpayer's
Representatives =

Year A =

Date A =

Date B =

This responds to a letter dated March 6, 2001, requesting an extension of time under §§ 301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to file a statement of allowed loss under § 1.1502-20(c)(3) of the Income Tax Regulations ("the Election"), with respect to a stock loss on Parent's stock of Sub

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that Parent may otherwise deduct for its Year A taxable year. Additional information was received in a letter dated May 31, 2001. The material information submitted is summarized below.

Corporation X, a Country corporation, owned all the stock of Parent. Parent was the common parent of a consolidated group that had a calendar taxable year and used the accrual method of accounting. Parent owned all the stock of Sub. In Year A, Parent alleges that the stock of Sub became worthless within the meaning of § 165(g). Sub was dissolved on Date A, in Year A. However, for various reasons, Parent never properly elected to deduct this loss pursuant to § 1.1502-20(c).

On Date B, Taxpayer's Representatives discovered that the Election should have been filed. Subsequently, this request, under § 301.9100-1, for an extension of time to file the Election was submitted to the Service. The statute of limitations under § 6501 has not run for the Parent's taxable year that included the sale, or any subsequent year or year affected by the Election.

Section 1.1502-20(a)(1) provides that, as a general rule, no deduction is allowed for any loss recognized by a member of a consolidated group with respect to the disposition of stock of a subsidiary.

Section 1.1502-20(c)(1) provides that the amount of loss disallowed under § 1.1502-20(a)(1) and the amount of basis reduction under § 1.1502-20(b)(1) with respect to a share of stock shall not exceed the sum of the amounts set forth in §§ 1.1502-20(c)(i), (ii), and (iii). Section 1.1502-20(c)(3) provides that § 1.1502-20(c)(1) applies only if a statement of allowed loss is filed with the taxpayer's return for the year of disposition.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making regulatory elections that do not meet the requirements of § 301.9100-2. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

In this case, the time for filing the Election is fixed by the regulations (i.e., § 1.1502-20(c)(3)). Therefore, the Commissioner has discretionary authority under § 301.9100-1 to grant an extension of time for Parent to file the Election, provided Parent shows that

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it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Parent, Parent Official, Tax Professional and Taxpayer's Representatives explain the circumstances that resulted in the failure to timely file the valid Election. The information establishes that the request for relief was initiated before the failure to make the regulatory election was discovered by the Internal Revenue Service, that Parent reasonably relied on a qualified tax professional, and that the interests of the government will not be prejudiced if relief is granted. See §§ 301.9100-3(b)(1)(i) and (v).

Based on the facts and information submitted, including the representations made, we conclude that Parent acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, an extension of time is granted under § 301.9100-1, until 30 days from the date of issuance of this letter, for Parent to file the Election.

The above extension of time is conditioned on the taxpayer's (Parent's consolidated group's) tax liability (if any) being not lower, in the aggregate, for all years to which the Election applies, than it would have been if the Election had been timely made (taking into account the time value of money). No opinion is expressed as to the taxpayer's tax liability for the years involved. A determination thereof will be made by upon audit of the federal income tax returns involved. Further, no opinion is expressed as to the federal income tax effect, if any, if it is determined that the taxpayers' liability is lower. Section 301.9100-3(c).

Parent must amend its return for tax Year A to properly claim the alleged loss, and attach to the return the Election and information set forth in § 1.1502-20(c)(3). In addition, Parent should attach a copy of this letter to the amended return.

We express no opinion as to whether Parent recognized a loss with respect to the stock of Sub, and if so, the amount of such loss that is allowed as a deduction under § 1.1502-20(c)(1), if any.

In addition, no opinion is expressed as to the tax effects or consequences of filing the Election late under the provisions of any other section of the Code and regulations, or as to the tax treatment of any conditions existing at the time of, or tax effects or consequences resulting from, filing the Election late that are not specifically set forth in the above ruling. For purposes of granting relief under § 301.9100-1, we relied on certain statements and representations made by the taxpayer, its employees and representatives. The facts contained in the statements and representations, however, are subject to verification. In addition, notwithstanding that an extension is granted under § 301.9100-1 to file the Election, penalties and interest that would otherwise be

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applicable, if any, continue to apply.

This letter is directed only to the taxpayer(s) who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Sincerely yours,
Associate Chief Counsel (Corporate)
By: Ken Cohen
Senior Technician Reviewer, CC:CORP:3

cc: