

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:INTL:PLR-125906-00

Date:

July 16, 2001

LEGEND

Taxpayer =

Entity =

Date One =

Individual A =

CPA Firm =

Dear :

This replies to a letter dated October 30, 2000, 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)(i) with respect to Entity for the tax year ended on Date One. 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.

Entity elected to be classified as a partnership for U.S. federal income tax purposes. Entity generated an operating loss, which was passed through, in part, to Taxpayer, and deducted on Taxpayer's U.S. consolidated tax return for the tax year ended on Date One. The tax return was timely filed under extension. Through inadvertence, the agreement, including certifications, required under § 1.1503-2(g)((2)(i) was not filed with the tax return.

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Individual A is a tax partner with CPA Firm and was engaged by Taxpayer to provide advice regarding the steps necessary to allow Taxpayer to use the losses of Entity in Taxpayer's consolidated tax return. Individual A's affidavit describes the circumstances surrounding the failure to timely file the agreement and certifications required under § 1.1503-2-(g)(2)(i), and establishes that Taxpayer relied upon Individual A for advice regarding the use of Entity's losses. Taxpayer is seeking relief before the failure to file the agreement is discovered by the IRS.

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. § 301.9100-1(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 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, § 1503-2(g)(2)(i) fixes the time to file the agreement, including certifications, and, therefore, the agreement is a regulatory election under § 301.9100-1(b). Accordingly, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies the standards of § 301.9100-3. 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)(i) with respect to Entity for the tax year ended on Date One.

The granting of an extension of time to file the agreement is not a determination that Taxpayer is otherwise eligible to file the agreement. § 301.9100 -1(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.

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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 letter is being sent to your authorized representatives.

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