**Internal Revenue Service**

Number: **200408026**
Release Date: 2/20/04
Index Number: 9100.22-00, 1503.04-04

Department of the Treasury
Washington, DC 20224

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL – PLR-163253-02
Date:
November 21, 2003

LEGEND

Taxpayer                    =

Individual A                =
Individual B                =
New Outside Tax Adviser  =


Dear              :

This replies to a letter dated September 20, 2002, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file the election agreement described in § 1.1503-2(g)(2)(i), and the annual certification described § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule A, which is attached and made a part of this ruling letter.  Additional information was submitted on March 6, 2003, March 17, 2003, March 21, 2003, May 19, 2003, and June 12, 2003.  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, including the information listed on Schedule A which has been made a part of this ruling letter, may be required as a part of the audit process.

In re: PLR-163253-02

Individual A is a vice president of taxes for Taxpayer, and Individual B is currently the director of international affairs for a wholly owned subsidiary of Taxpayer. The affidavits of Individuals A and B and the facts submitted describe the circumstances that led Taxpayer's professional tax staff to conclude that the entities listed on Schedule A did not constitute separate business units so that the losses they incurred in the tax years also listed on Schedule A did not constitute dual consolidated losses. Consequently, Taxpayer did not file the election agreements and annual certifications described in § 1.1503-2(g)(2) with respect to these losses. Later, Taxpayer's new outside tax adviser advised Taxpayer that the losses were subject to the dual consolidated loss rules and, therefore, Taxpayer should have filed election agreements and annual certifications described in § 1.1503-2(g)(2).

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 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, the election agreement and annual certification described in § 1.1503-2(g)(2) are regulatory elections 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 rules set forth in § 301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 45 days from the date of this ruling letter to file to file the election agreement described in § 1.1503-2(g)(2)(i), and the annual certification described in § 1.1503-2(g)(2)(vi)(B) in accordance with Schedule A.

In re: PLR-163253-02

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreements and the annual certifications. § 301.9100-1(a).

A copy of this ruling letter should be associated with the election agreements and annual certifications.

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. Specifically, the relief granted by this ruling letter will not affect the Service's ability to challenge any transaction of Taxpayer, including those transactions relating to lease and leaseback, lease-in and lease-out, and sale and leaseback.

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/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosure:

Schedule A
Copy for 6110 purposes

In re: PLR-163253-02

# SCHEDULE A

| | EIN | Taxable Year | Required (g)(2) Elections | Required Annual Certifications | Total |
|---|---|---|---|---|---|
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| | | | 6 | 0 | 6 |
| | | | | | |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| Total | | | 6 | 0 | 6 |
| | | | | | |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| DCL Incurred | | | 1 | 0 | 1 |
| Total | | | 6 | 0 | 6 |

In re:  PLR-163253-02

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 6 | 0 | 6 |

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 6 | 0 | 6 |

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 5 | 0 | 5 |

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 5 | 0 | 5 |

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |

In re: PLR-163253-02

| | | | |
|---|---|---|---|
| Total | 5 | 0 | 5 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 5 | 0 | 5 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 5 | 0 | 5 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 5 | 0 | 5 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 4 | 0 | 4 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 4 | 0 | 4 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |

In re:  PLR-163253-02

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | <u>4</u> | <u>0</u> | <u>4</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | <u>4</u> | <u>0</u> | <u>4</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | <u>4</u> | <u>0</u> | <u>4</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | <u>4</u> | <u>0</u> | <u>4</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | <u>4</u> | <u>0</u> | <u>4</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | <u>4</u> | <u>0</u> | <u>4</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |

In re:  PLR-163253-02

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | 4 | 0 | 4 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | 4 | 0 | 4 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 4 | 0 | 4 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 4 | 0 | 4 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 3 | 0 | 3 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 3 | 0 | 3 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |

In re: PLR-163253-02

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | <u>3</u> | <u>0</u> | <u>3</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | <u>3</u> | <u>0</u> | <u>3</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| **Total** | <u>3</u> | <u>0</u> | <u>3</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| **Total** | <u>3</u> | <u>0</u> | <u>3</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | <u>2</u> | <u>0</u> | <u>2</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| **Total** | <u>2</u> | <u>0</u> | <u>2</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| **Total** | <u>2</u> | <u>0</u> | <u>2</u> |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | <u>2</u> | <u>0</u> | <u>2</u> |

In re: PLR-163253-02

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | 2 | 0 | 2 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| | 2 | 0 | 2 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 2 | 0 | 2 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred | 1 | 0 | 1 |
| Total | 2 | 0 | 2 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |
| | | | |
| DCL Incurred | 1 | 0 | 1 |

**CHECK-THE-BOX ENTITIES:**

In re:  PLR-163253-02

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred / Certification Required | 1 | 1 | 2 |
| DCL Incurred / Certification Required | 1 | 1 | 2 |
| Total | <u>3</u> | <u>2</u> | <u>5</u> |

**None**

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| Certification Required | 0 | 1 | 1 |
| Certification Required | 0 | 1 | 1 |
| Total | <u>1</u> | <u>2</u> | <u>3</u> |

**None**

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| Certification Required | 0 | 1 | 1 |
| Certification Required | 0 | 1 | 1 |
| Total | <u>1</u> | <u>2</u> | <u>3</u> |

**None**

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| Certification Required | 0 | 1 | 1 |
| Certification Required | 0 | 1 | 1 |
| Total | <u>1</u> | <u>2</u> | <u>3</u> |

**None**

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| Certification Required | 0 | 1 | 1 |
| Certification Required | 0 | 1 | 1 |
| Total | <u>1</u> | <u>2</u> | <u>3</u> |

**None**

| | | | |
|---|---|---|---|
| DCL Incurred | 1 | 0 | 1 |
| DCL Incurred/Certification Required | 1 | 1 | 2 |
| Total | <u>2</u> | <u>1</u> | <u>3</u> |

Cc: