

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Refer Reply To:

CC: INTL – PLR-148657-05

Date: January 27, 2006

Taxpayer =

Entity 1 =

Entity 2 =

Entity 3 =

Entity 4 =

Year 1 =

Year 2 =

Year 3 =

aa =

bb =

cc =

dd =

In re: PLR-148657-05

ee =  
ff =  
gg =  
hh =  
CPA Firm =  
Senior Manager =  
Country A =  
Country B =

Dear

This is in response to a letter dated September 22, 2005, requesting an extension of time under Treas. Reg. § 301.9100-3 to file elections under Treas. Reg. § 1.1503-2(g)(2)(i) or Treas. Reg. § 1.1503-2T(g)(2)(i), as applicable (elections), and annual certifications under Treas. Reg. § 1.1503-2(g)(2)(vi)(B) or Treas. Reg. § 1.1503-2T(g)(2)(vi)(B), as applicable (certifications), with respect to dual consolidated losses attributable to interests in Entities 1 through 4. Additional information was received in a letter dated January 20, 2006. 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 engaged CPA Firm to prepare its federal income tax returns for Year 1, Year 2 and Year 3. Senior Manager of CPA Firm had review responsibilities with regard to Taxpayer's returns. The returns prepared by CPA Firm did not include elections or certifications with respect to dual consolidated losses attributable to interests in Entities 1 through 4, because Senior Manager was under the mistaken impression that hybrid entities and foreign branches are not treated as dual resident corporations under Treas. Reg. §1.1503-2(c)(2), and that elections and certifications are not required to be filed with respect to losses attributable to interests in such entities. Senior Manager

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discovered the error after reading Treasury regulations concerning dual consolidated losses. He confirmed the requirement to file elections and certifications with CPA Firm's National Office.

The interest in Entity 1 is a hybrid entity separate unit as described in §1.1503-2(c)(4). Dual consolidated losses of Amount aa for Year 1, Amount bb for Year 2, and Amount cc for Year 3, are attributable to the interest in Entity 1. An election for each loss was not filed with the tax returns for Years 1 through 3. A certification with respect to the Year 1 loss was not filed with the tax returns for Years 2 and 3. A certification with respect to the Year 2 loss was not filed with the tax return for Year 3.

The interest in Entity 2 is a hybrid entity separate unit as described in §1.1503-2(c)(4). Dual consolidated losses of Amount dd for Year 2 and Amount ee for Year 3 are attributable to the interest in Entity 1. An election for each loss was not filed with the tax returns for Years 2 and 3. A certification with respect to the Year 2 loss was not filed with the tax return for Year 3.

The interest in Entity 3 is a hybrid entity separate unit as described in §1.1503-2(c)(4). A dual consolidated loss of Amount ff for Year 3 is attributable to the interest in Entity 1. An election was not filed with the tax return for Year 3.

Entity 4 is a foreign branch of Taxpayer and a separate unit described in §1.1503-2(c)(3)(A). Dual consolidated losses of Amount gg for Year 1 and Amount hh for Year 2 are attributable to Entity 4. An election for each loss was not filed with the tax returns for Years 1 and 2.

The income tax laws of Country A do not deny the use of losses, expenses, or deductions of Entity 1 to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

The income tax laws of Country B do not deny the use of losses, expenses, or deductions of Entity 3 to offset income of another person because the dual resident corporation or separate unit is also subject to income taxation by another country on its worldwide income or on a residence basis.

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.

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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 Treas. Reg. § 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 Treas. Reg. § 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 filings described in Treas. Reg. §§ 1.1503-2(g)(2) and 1.1503-2T(g)(2) are regulatory elections as defined in Treas. Reg. § 301.9100-1(b). Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file the elections and certifications for the dual consolidated losses described in this letter attributable to the interests in Entities 1 through 4.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election agreement and annual certification. Treas. Reg. § 301.9100-1(a). For example, a taxpayer that is subject to mirror legislation enacted by a foreign country may be ineligible to file election agreements pursuant to Treas. Reg. § 1.1503-2(c)(15)(iv).

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

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.

Pursuant to a power of attorney on file in this office a copy of this letter is being sent to Taxpayer's authorized representatives.

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Sincerely,

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Robert W. Lorence  
Senior Counsel  
Office of Associate Chief Counsel (International)

Enclosure:  
Copy for 6110 purposes

cc: