

Internal Revenue Service

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Person To Contact:  
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Refer Reply To:  
CC:INTL  
PLR-148609-05

Date:  
March 31, 2006

## LEGEND

Taxpayer =  
Corp A =  
LP =  
LLC =  
Tax Year One =  
Tax Year Two =  
Tax Year =  
Three =  
Tax Year Four =  
Tax Year Five =  
Tax Year Six =  
Tax Year =  
Seven =  
Country K =  
Individual A =  
CPA Firm =

Dear :

This replies to your letter dated September 20, 2005, in which you request on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 for Taxpayer to file the elections and agreements described in §§1.1503-2(g)(2)(i), and 1.1503-2T(g)(2)(i) (“(g)(2)(i) elections”), and the annuals certifications described in §§1.1503-2(g)(2)(vi)(B) and 1.1503-2T(g)(2)(vi)(B) (“(g)(2)(vi) annual certifications”) as follows:

	Tax Year One	Tax Year Two	Tax Year Three	Tax Year Four	Tax Year Five	Tax Year Six
Taxpayer's direct interest in LLC	a	a/b	a/b	a/b	a/b	c/d
Taxpayer's indirect interest in LLC	a	a/b	a/b	a/b	a/b	c/d

**LEGEND**

- a = Election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i).
- b = Annual certification described in Treas. Reg. §1.1503-2(g)(2)(vi)(B)
- c = Election and agreement described in Treas. Reg. §1.1503-2T(g)(2)(i)
- d = Annual certification described in Treas. Reg. §1.1503-2T(g)(2)(vi)(B)

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 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.

During Tax Years One through Six, Taxpayer was the common parent of an affiliated group of corporations that filed a U.S. consolidated federal income tax return. Corp A was a wholly-owned subsidiary of Taxpayer and a member of that group. During those years, Corp A held a controlling partnership interest in LP, a domestic limited partnership. Corp A, LP, and an unrelated entity and its subsidiary owned LLC. LLC was a domestic limited liability company and conducted its business in County K. LLC was subject to income tax at the entity level in Country K but elected to be classified as a partnership for U.S. federal income tax purposes. Accordingly, LLC was a hybrid entity separate unit as defined in Treas. Reg. §1.1503-2(c)(4), and the losses incurred in Tax Years One through Six by LLC attributable to Corp A's interests in LLC were dual consolidated losses (DCLs) as defined in §1.1503-2(c)(5).

In Tax Years One through Six, the U.S. consolidated federal tax return for Taxpayer's affiliated group was prepared by Taxpayer's employees under the direction of an officer

of Taxpayer. In preparing each year's consolidated federal return, Taxpayer's employees relied upon a pro forma return for Corp A that had been prepared by CPA

Firm. CPA Firm also prepared Corp A's separate company return and LP's U.S. partnership return. LLC's U.S. partnership returns were prepared by another tax preparer other than CPA Firm. As such, for Tax Years One through Five, CPA Firm received LLC's Form K-1 from the controlling partner in LLC. Individual A, currently a senior manager at CPA Firm, reviewed the Forms K-1 containing the foreign loss information, and included this information in preparing the tax returns of Corp A and LP. During the tax years at issue, no one on CPA Firm's engagement team recognized the foreign losses of LLC as DCLs. Thus, no one on that team informed Corp A of the need to have Taxpayer file the (g)(2)(i) elections in order for Taxpayer's consolidated group to deduct LLC's DCLs.

In Tax Year Seven, a tax professional with Corp A informed Individual A that the losses of LLC were DCLs for which (g)(2)(i) elections and (g)(2)(vi) annual certifications should have been filed with Taxpayer's consolidated federal income tax returns beginning in Tax Year One. In connection with preparing this request for relief, the tax professional discovered that the (g)(2)(i) election filed with Taxpayer's Tax Year Six U.S. consolidated federal income tax return did not include all of the required items set forth in Treas. Reg. §1.1503-2T(g)(2)(i)(A) through (F).

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the elections and agreements described in Treas. Reg. §§1.1503-2(g)(2)(i) and 1.1503-2T(g)(2)(i) and the annual certifications described in §§1.1503-2(g)(2)(vi)(B) and 1.1503-2T(g)(2)(vi)(B) as set forth above. Treas. Reg. §301.9100-3(b)(1)(i).

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. §301.9100-1(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. §301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides 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 within the meaning of §301.9100-3(b), subject to the conditions set forth in §301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of §301.9100-3(c).

In the present situation, the elections and agreements described in Treas. Reg. §§1.1503-2(g)(2)(i) and 1.1503-2T(g)(2)(i), and the annual certifications described in §§1.1503-2(g)(2)(vi)(B) and 1.1503-2T(g)(2)(vi)(B) 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 representations submitted, we conclude that Taxpayer satisfies the standards for relief as set forth in Treas. Reg. §301.9100-3. Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter for Taxpayer to file the elections and agreements described in §§1.1503-2(g)(2)(i) and 1.1503-2T(g)(2)(i), and the annual certifications described in §§1.1503-2(g)(2)(vi)(B) and 1.1503-2T(g)(2)(vi)(B) as set forth above.

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

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

This ruling is directed only to 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.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of the Associate Chief Counsel (International)

Enclosures:

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