Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

[Third Party Communication:
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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:INTL
PLR-125197-06
Date:
September 15, 2006

LEGEND

Taxpayer =

Entity A =
Entity B =
Country X =
Country Y =
Four Years =
Two Years =
Date 1 =
Date 2 =
Date 3 =
Year 1 =
Year 2 =
Year 3 =
R interest =

Dear :

This replies to your representative's letter dated December 12, 2005, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to attach to amended federal income tax returns for Years 2 and 3 the rebuttal documentation required under §1.1503-2(g)(2)(vii)(B) with respect to the triggering events occurring on Date 1 and Date 2 with respect to Entity A and Entity B,

respectively. Additional information was submitted on August 30, 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 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 owned R interest in Entity A, a private limited company formed under the laws of Country X. A wholly-owned domestic subsidiary of Taxpayer owned the remaining interest. Entity A is a corporation for Country X tax purposes. Prior to Date 1, Entity A was characterized as a partnership for U.S. federal income tax purposes. Thus, Entity A was considered a hybrid entity separate unit within the meaning of Treas. Reg. §1.1503-2(c)(4). Entity A incurred losses in the Four Years prior to Date 1, and the losses met the definition of dual consolidated losses within the meaning of §1.1503-2(c)(5).

Effective on Date 1, an election was filed to treat Entity A as an association taxable as a corporation for U.S. federal income tax purposes. This entity classification election made for Entity A constituted a triggering event under Treas. Reg. §1.1503-2(g)(2)(iii)(A)(7). Taxpayer recaptured the Entity A losses to the extent that the previously deducted losses exceeded the income Entity A reported for the tax periods prior to Date 1. Inadvertently, Taxpayer did not attach to its consolidated U.S. income tax return for Year 3, which included Date 1, the rebuttal documentation required under §1.1503-2(g)(2)(vii)(B). In addition, Taxpayer also failed to remit the interest charge due in connection with the recapture with its consolidated tax return for Year 3, an omission that it agrees to correct.

Taxpayer owned R interest in Entity B, a proprietary limited liability company formed under the laws of Country Y. A wholly-owned domestic subsidiary of Taxpayer owned the remaining interest. Entity B is a corporation for Country Y tax purposes. Prior to Date 2, Entity B was characterized as a partnership for U.S. federal income tax purposes. Thus, Entity B was considered a hybrid entity separate unit within the meaning of Treas. Reg. §1.1503-2(c)(4). Entity B incurred losses in Two Years prior to Date 2, and the losses met the definition of dual consolidated losses within the meaning of §1.1503-2(c)(5).

Effective on Date 2, an election was filed to treat Entity B as an association taxable as a corporation for U.S. federal income tax purposes. This entity classification election made for Entity B constituted a triggering event under Treas. Reg. §1.1503-2(g)(2)(iii)(A)(7). On its consolidated tax return for Year 2, Taxpayer recaptured the previously deducted losses of the Two Years, net of taxable income for Year 1 and Year 2. Taxpayer, however, inadvertently failed to attach to the consolidated tax return for

Year 2, which included Date 2, the rebuttal documentation required under §1.1503-2(g)(2)(vii)(B). In addition, Taxpayer also failed to remit the interest charge due in connection with the recapture with its consolidated tax return for Year 2, an omission that it agrees to correct.

Form 872, Consent to Extend the Time to Assess Tax, has been executed to extend the time to assess tax for Year 2 and Year 3 until Date 3.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the rebuttal documentation required under Treas. Reg. §1.1503-2(g)(2)(vii)(B). 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 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 rebuttal documentation required under Treas. Reg. §1.1503-2(g)(2)(vii)(B) is a regulatory election 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 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 attach to amended federal income tax returns for Years 2 and 3 the rebuttal documentation required under §1.1503-2(g)(2)(vii)(B) with respect to the triggering events occurring on Date 1 and Date 2 with respect to Entity A and Entity B, respectively.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the rebuttal documents. Treas. Reg. §301.9100-1(a).

A copy of this ruling letter should be associated with the rebuttal documents.

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 ruling letter is being furnished to your first and second listed authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning
Richard L. Chewning
Senior Counsel
Office of Associate Chief Counsel (International)

Enclosure:
Copy for 6110 purposes

cc: