Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.
Telephone Number:

Refer Reply To:
CC:INTL
PLR-141950-06

Date:
December 19, 2006

LEGEND

Taxpayer =

Corp A =
Branch =
Tax Year One =
Tax Year Two =
Country Y =
CPA Firm =

Dear :

This replies to your representative's letter dated September 6, 2006, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the election and agreement described in §1.1503-2T(g)(2)(i) for the dual consolidated loss (DCL) within the meaning of §1.1503-2(c)(5) incurred by Branch in Tax Year 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 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.

For Tax Year One, Taxpayer was the common parent of a U.S. consolidated group. Taxpayer owned Corp A, a U.S. limited liability company that elected to be classified as a disregarded entity for U.S. federal income tax purposes. During Tax Year One, Taxpayer, indirectly through Corp A, owned Branch, which was located in Country Y and was classified as a foreign branch of a U.S. corporation.

Pursuant to Treas. Reg. §1.1503-2(c)(3), Branch was considered a separate unit and, therefore, a dual resident corporation under §1.1503-2(c)(2). Branch incurred a DCL in Tax Year One. Taxpayer owned other branches in Country Y but those branches did not incur DCLs in Tax Year One. Taxpayer included Branch's DCL in its consolidated U.S. income tax return for that tax year. For the reasons discussed below, the election statement required under §1.1503-2T(g)(2)(i) was not filed with the tax return for Tax Year One.

In the course of preparing its Tax Year One consolidated U.S. income tax return, Taxpayer's tax department performed analyses of potential foreign branch losses. Several branch activities in foreign countries were analyzed but an analysis of the Country Y branches was not performed. During this time, the international tax manager who was in charge of overseeing both the Country Y branch activities and the international tax aspects of Taxpayer's consolidated U.S. income tax return abruptly left the company and did not review the DCL analyses performed by Taxpayer's tax department. As a result of this departure, Taxpayer engaged CPA Firm to review the tax return, including the DCL issues. CPA Firm was familiar with the Country Y branches because it was extensively involved in many of the Country Y tax issues through its local offices. CPA Firm did not perform its review of Taxpayer's Tax Year One tax return until the week prior to its filing. Nonetheless, Taxpayer believed that CPA Firm had performed a thorough review of all of its DCL issues, including those involving the Country Y branches.

During the review of the consolidated U.S. income tax return for Tax Year Two, the new international tax manager noticed that work papers for the tax return for Tax Year One did not include an analysis of the Country Y branches for Tax Year One. CPA Firm was contacted about these work papers. At that time, it was discovered that an analysis of those branches had not been performed. An analysis was then performed that indicated that only Branch had incurred a DCL in Tax Year One and that the election statement required under §1.1503-2T(g)(2)(i) had not been filed with Taxpayer's consolidated U.S. income tax return for Tax Year One.

Taxpayer represents that it filed this application for relief before the Internal Revenue Service discovered the failure to file the election and agreement described in Treas. Reg. §1.1503-2T(g)(2)(i) in Tax Year One for the DCL incurred by Branch. 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 election and agreement described in Treas. Reg. §1.1503-2T(g)(2)(i) 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 standards for relief as set forth in §301.9100-3.

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 to file the election and agreement described in §1.1503-2T(g)(2)(i) for the DCL incurred by Branch in Tax Year One

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

A copy of this ruling letter should be associated with the election and agreement.

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.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your listed authorized representatives.

Sincerely,

Associate Chief Counsel (International)

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

Enclosure:
Copy for 6110 purposes