

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:B06

PLR-108798-13

Date:

July 08, 2013

Legend

Parent =

Sub 1 =

Sub 2 =

Date 1 =

Company Official =

Tax Professional =

Dear :

This letter ruling responds to a letter from your authorized representatives, dated February 21, 2013, as supplemented by additional information provided on April 18, 2013, May 21, 2013, and June 13, 2013, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election. The extension is being requested for Parent and its subsidiaries to make an election to file a consolidated Federal income tax return, with Parent as the common parent, under § 1.1502-75(a)(1) of the Income Tax Regulations (hereinafter referred to as "the Election"), effective for the taxable year ending on Date 1. The material information provided is summarized below.

Parent is the common parent of an affiliated group consisting of Parent, Sub 1, and Sub 2, each a calendar year taxpayer. Parent and its subsidiaries intended to file a consolidated return starting with the taxable year ending Date 1. The Election was due on the last day prescribed by law (including extensions) for the filing of Parent's return, but for various reasons a valid Election was not made. Subsequently, this request was submitted, under penalties of perjury, for an extension of time to make the Election.

The period of limitations on assessment under § 6501(a) has not expired for the Parent Group's taxable year for which they want to make the election, or any taxable years that would be affected by the Election had it been timely filed. Parent has represented that it is not seeking to alter a return position for which an accuracy related penalty has been or could be imposed under § 6662.

Section 1.1502-75(a)(1) of the Income Tax Regulations provides, in part, that an affiliated group of corporations which did not file a consolidated return for the immediately preceding taxable year may file a consolidated return in lieu of separate returns for the taxable year, provided that each corporation which has been a member of the group during any part of the taxable year for which the consolidated return is to be filed consents, in accordance with § 1.1502-75(b), to the regulations under § 1502. If a group wishes to exercise its privilege of filing a consolidated return, such consolidated return must be filed not later than the last day prescribed by law (including extensions of time) for the filing of the common parent's return.

Under § 301.9100-1(c), the Commissioner has discretion to grant a reasonable extension of time to make a regulatory election or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. Section 301.9100-3(a).

In this case, the time for filing the Election is fixed by the regulations (i.e., § 1.1502-75(a)(1)). Therefore, the Commissioner has discretionary authority under § 301.9100-3 to grant an extension of time for Parent to file the Election, provided Parent shows it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government.

Information, affidavits, and representations submitted by Parent, Company Official, and Tax Professional explain the circumstances that resulted in the failure to timely file the

Election. The information establishes that the request for relief was filed before the failure to make the Election was discovered by the Internal Revenue Service. See § 301.9100-3(b)(1)(i).

Based on the facts and information submitted, including the affidavits submitted and representations made, we conclude that Parent has shown it acted reasonably and in good faith, the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied, and granting relief will not prejudice the interests of the government. Accordingly, provided that the Parent Group qualifies substantively to file a consolidated return for the applicable taxable year, an extension of time is granted under § 301.9100-3, until 45 days from the date on this letter, for Parent to file the Election. The Parent Group, having already filed such a return, must attach a copy of this ruling letter to such return, or if the Parent Group files the return electronically, must attach a statement to the return that provides the date and the control number of this ruling letter.

The above extension of time is conditioned on the Parent Group's and each of its members' tax liabilities, if any, not being lower in the aggregate for all years to which the Election applies than they would have been if the Election had been timely made (taking into account the time value of money). We express no opinion as to the Parent Group's or any of its members' tax liabilities. A determination thereof will be made by the Director's office upon audit of the income tax returns involved.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any item discussed or referenced in this letter. In particular, we express no opinion with respect to whether Taxpayer qualifies substantively to make the Election. In addition, we express no opinion as to the tax effects or consequences of filing the Election late under the provisions of any other section of the Internal Revenue Code or regulations, or as to the tax treatment of any conditions existing at the time of, or resulting from, filing the Election late that are not specifically set forth in this letter.

For purposes of granting relief under § 301.9100-3, we relied on certain statements and representations made under penalty of perjury by Taxpayer, Company Official, and Tax Professional. The Director, however, should verify all essential facts. In addition, notwithstanding that an extension is granted under § 301.9100-3 to file the Election, any penalties and interest that would otherwise be applicable continue to apply.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

Ken Cohen

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Corporate)