

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B01
PLR-134930-08

Date:
May 01, 2009

TY:

Legend

Taxpayer =
Controlled =
Date A =
Date B =
Ruling Letter =
Year One =

Dear :

This replies to a letter dated August 8, 2008, in which Taxpayer requests an extension of time under Treas. Reg. §301.9100-3 to file a statement that Taxpayer will treat a disposition of stock as a “disposition” for purposes of Treas. Reg. §1.884-2T(d)(5)(i).

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.

Pursuant to Treas. Reg. §1.884-2T(d)(5)(ii), Taxpayer received Ruling Letter that required Taxpayer to attach a statement to a timely filed (including extensions) Form 1120F (U.S. Income Tax Return of a Foreign corporation) agreeing that Taxpayer will treat a disposition of part or all of the stock of Controlled (or a successor in interest) as a “disposition” for purposes of Treas. Reg. §1.884-2T(d)(5)(i). Prior to the receipt of this ruling, Taxpayer did not file a U.S. income tax return and was not required to do so. Had Taxpayer been required to file (independent of the Ruling Letter) a U.S. income tax return for Year One, such tax return would have been due on Date A. Taxpayer was

eligible for, and intended to file, an automatic extension of time to file its tax return for Year One, however, due to an inadvertent oversight, Taxpayer failed to file a request for an automatic extension of time.

On Date B Taxpayer discovered its failure to timely file a request for automatic extension of time to file its tax return for Year One. Such failure to file would render invalid the Ruling Letter as it relates to Treas. Reg. §1.884-2T(d)(5)(ii). Accordingly, Taxpayer filed a request for relief to enable it to file the statement required by the Ruling Letter. The IRS did not discover Taxpayer's failure to timely file the required statement before this request for relief was filed.

Taxpayer asks for an extension of time under Treas. Reg. §301.9100-3 to file a statement agreeing that Taxpayer will treat a disposition of part or all of the stock of Controlled (or a successor in interest) as a "disposition" for the purposes of Treas. Reg. §1.884-2T(d)(5)(i), by attaching that statement to its Year One Form 1120F and filing that return within 30 days of the issuance of the requested ruling. If Taxpayer's request is granted Taxpayer will be filing its Year One 1120F within 18 months of Date A, the due date for its Year One Form 1120F.

Treas. Reg. §301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards 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. §301.9100-1(b) 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 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

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 Commissioner has discretionary authority under Treas. Reg. §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in Treas. Reg. §301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. §301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until

30 days from the date of this ruling letter to file its Form 1120F for Year One and attach a statement that it will treat a disposition of part or all of the stock of Controlled (or a successor in interest) as a "disposition" for purposes of Treas. Reg. §1.884-2T(d)(5)(i).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible for tax benefits. Treas. Reg. §301.9100-1(a).

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

John J. Merrick
Special Counsel
(International)