

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **201224025**  
Release Date: 6/15/2012

Third Party Communication: None  
Date of Communication: Not Applicable  
Person To Contact:

Index Number: 9100.22-00, 992.02-00

, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL:B06  
PLR-151271-11  
Date:  
March 16, 2012

In re:

TY:

**LEGEND**

- Taxpayer =
- State =
- Accounting Firm =
- Company =
- Individual =
- Date 1 =
- Date 2 =
- Date 3 =
- Month 1 =

Dear :

This responds to a letter dated December 2, 2011, submitted by Accounting Firm requesting that the Internal Revenue Service (“Service”) grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A (“Election To Be Treated as an Interest Charge DISC”) for Taxpayer’s first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Accounting Firm, and accompanied by penalty of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process.

**FACTS**

In Month 1, Accounting Firm approached Individual, an officer of Company, to discuss the potential benefits of establishing an interest charge domestic international sales

corporation (“IC-DISC”). As a result of Accounting Firm’s advice, Company formed Taxpayer on Date 1 in State as a calendar year taxpayer with the intention of electing treatment as an IC-DISC. Taxpayer relied on Accounting Firm as a long term provider of tax services with the necessary experience to provide IC-DISC advice to perform all necessary steps to qualify Taxpayer as an IC-DISC and file the necessary forms.

Believing all the requirements to conduct business and be treated as an IC-DISC for its first taxable year were satisfied, Taxpayer began acting as an IC-DISC as of its date of formation.

On Date 2, Accounting Firm filed Form 1120-IC-DISC. On or about Date 3, Taxpayer received notification from the Service of the failure to file Form 4876-A.

Taxpayer has requested a ruling that grants an extension of time of 60 days from the date of the ruling letter to file Form 4876-A and that such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer’s first taxable year.

### **LAW AND ANALYSIS**

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC<sup>1</sup> shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A. A corporation electing to be treated as an IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic

---

<sup>1</sup> As used in this letter, the terms “IC-DISC” and “DISC” have the same meaning.

extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 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 that the grant of relief will not prejudice the interests of the Government.

In the present situation, the election described in Temp. Treas. Reg. § 1.921-1T(b)(1) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). Therefore, 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 for relief set forth in Treas. Reg. § 301.9100-3.

Based on the facts and representations submitted with Taxpayer's ruling request, 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 file Form 4876-A as required by Temp. Treas. Reg. § 1.921-1T(b)(1). Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). A copy of this letter ruling should be filed with the Form 4876-A.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that written determinations may not be used or cited as precedent. Except as expressly provided herein, this ruling neither expresses nor implies any opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this ruling letter.

Pursuant to a Power of Attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representative.

Sincerely,

---

Christopher J. Bello  
Branch Chief, Branch 6  
Office of Associate Chief Counsel  
(International)

cc: