

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B06
PLR-109001-13

Date:
April 12, 2013

In Re:

TY:

Legend

- Taxpayer =
- Accounting Firm =
- Shareholder =
- Date 1 =
- State A =
- Date 2 =
- Date 3 =

Dear :

This responds to a letter dated February 11, 2013, supplemented by a letter dated March 27, 2013, 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 material submitted in support of the request for rulings. It is subject to verification on examination.

FACTS

Taxpayer is a domestic corporation with a calendar taxable year and is wholly owned by Shareholder.

Shareholder incorporated Taxpayer on Date 1 in State A. Taxpayer intended to elect to be treated as an interest charge domestic international sales corporation (“IC-DISC”) as of Date 1.

Accounting Firm had been a long term provider of tax services and has the necessary experience to provide IC-DISC advice. Taxpayer requested Accounting Firm to perform all the necessary steps to qualify Taxpayer as an IC-DISC, including preparation of all necessary forms.

Accounting Firm prepared Form 4876-A. Taxpayer obtained the signatures of an officer and Shareholder on Date 2 and mailed the election to the appropriate IRS service center on Date 3. The election was not sent by certified mail nor was a return receipt requested.

After Taxpayer filed its initial Form 1120-IC-DISC, Taxpayer received a notice from an IRS service center indicating that the service center did not have any record of the original Form 4876-A having been filed. Taxpayer is not contesting whether the service center received the Form 4876-A. Instead, Taxpayer requests relief under Treas. Reg. § 301.9100-3 for an extension of time to file the IC-DISC election effective Date 1.

LAW AND ANALYSIS

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC 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.

Section 992(b)(1)(B) provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on such first day of the first taxable year for which such election is effective consent to such election.

Temporary Treasury Regulation § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that 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.

Treasury Regulation § 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.

Treasury Regulation § 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.

Treasury Regulation § 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 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.

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. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year beginning Date 1.

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 attached to the Federal income tax return for any taxable year to which the ruling applies.

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. 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.

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

Sincerely,

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