

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No.

Telephone Number:

In re:

Refer Reply To:
CC:INTL:B06
PLR-108792-13

Date:
July 26, 2013

TY:

LEGEND

- Taxpayer =
- State =
- Company =
- Shareholder 1 =
- Shareholder 2 =
- Accounting Firm =
- Law Firm =
- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =

Dear _____ :

This responds to a letter dated February 8, 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 owned and managed by Shareholder 1 and Shareholder 2. Taxpayer was formed to serve as an interest charge domestic international sales corporation ("IC-DISC") and has established a commission arrangement with Company. Law Firm prepared the articles of incorporation. Taxpayer was formed on Date 1 in State.

On Date 2, Accounting Firm prepared Form 4876-A and delivered the election form to Law Firm for review and to obtain the shareholders' signatures. The form was never delivered to the shareholders.

Believing that all the requirements to be treated as an IC-DISC had been met, Taxpayer began operations. On or about Date 3, the corporation filed its initial federal income tax return as an IC-DISC. Taxpayer received a letter dated Date 4, stating that the Form 4876-A had not been timely filed.

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 DISC¹ 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

¹ As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

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 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 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,

Joseph L. Tobin
Senior Counsel, Branch 6
Office of Associate Chief Counsel
(International)