

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No. _____

Telephone Number: _____

In re:

Refer Reply To:
CC:INTL:B06
PLR-134588-14
Date:
January 15, 2015

TY:

LEGEN D

- Taxpayer =
- Accounting Firm =
- Individual 1 =
- Individual 2 =
- Individual 3 =
- Trust =
- Company 1 =
- Law Firm =
- Date 1 =
- Date 2 =
- Date 3 =
- Year 1 =
- Year 2 =

Dear _____ :

This responds to a letter dated September 12, 2014, 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 affidavits and penalties of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for rulings. It is subject to verification on examination.

FACTS

Taxpayer and Company 1 are domestic corporations wholly owned by Individual 1, Individual 2, and Trust. Taxpayer was formed for the sole purpose of qualifying and operating as an interest charge domestic international sales corporation ("IC-DISC"). Taxpayer operates under a commission arrangement with Company 1.

Individual 3 is a partner at Accounting Firm. At the end of Year 1, Individual 3 discussed with Individual 1 and her husband the possibility of forming an IC-DISC. Pursuant to these discussions, Individual 3 asked Law Firm to assist Individual 1 with preparing the appropriate documents to incorporate Taxpayer under state law. Taxpayer was formed on Date 1. Individual 3 assumed that Law Firm would also provide assistance in filing Form 4876-A. Throughout the end of Year 1 and the beginning of Year 2, the husband and business partner of Individual 3 had a serious medical condition which required Individual 3 to be absent from her office for extended periods of time. On Date 2, Individual 3 discovered that Law Firm had not assisted in preparing Form 4876-A, and that Form 4876-A had not been filed. Individual 3 then prepared Form 4876-A, which was signed by Taxpayer and filed on Date 3, more than 90 days after Date 1. Taxpayer intended at all times to be treated as an IC-DISC, and acted in accord with that belief.

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 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.

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

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

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 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. 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). Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter 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.

Pursuant to Forms 2848 (Power of Attorney and Declaration of Representative) on file in this office, copies of this ruling letter are being furnished to your authorized representatives.

Sincerely,

Anne P. Shelburne
Senior Counsel, Branch 6
Office of Associate Chief Counsel (International)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: