

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-105590-16

Date:
June 20, 2016

TY:

Legend

Taxpayer =
Attorney =
Foreign Owner =
Country A =
Company =
Affiliates =

Month 1 =
Date 1 =
Year 1 =

Dear :

This responds to a letter dated February 12, 2016, as supplemented by a letter dated April 25, 2016, submitted by your representative 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 Year 1, Taxpayer’s first taxable year.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for a ruling. It is subject to verification on examination.

FACTS

Taxpayer and Company are domestic corporations wholly-owned by Foreign Owner, a foreign entity organized in Country A. Affiliates are members of a consolidated group of domestic corporations for which Company is the common parent. Taxpayer was formed to serve as an interest charge domestic international sales corporation (“IC-DISC”) and sell products manufactured by Company and Affiliates on a commission basis.

In Month 1, Foreign Owner decided to establish an IC-DISC and engaged Attorney to complete the necessary organizational documents. On Date 1, Taxpayer was incorporated with Attorney’s assistance. Taxpayer relied on Attorney to timely make the necessary elections to qualify Taxpayer as an IC-DISC for Year 1. Due to an inadvertent oversight by Attorney, the Form 4876-A was not filed within 90 days after Date 1.

After Attorney discovered later in Year 1 that Form 4876-A had not been timely filed, Attorney advised Taxpayer that the best course of action to remedy the situation was to seek a private letter ruling granting an extension of time to file Form 4876-A for Year 1, its first taxable year.

Taxpayer represents that the extension does not prejudice the Government’s interests and that Taxpayer is not placed in a better position by making the election at this time than it would have been in had the election been timely made.

As noted above, Taxpayer requested a ruling granting an extension of time to file Form 4876-A for its first taxable year.

LAW AND ANALYSIS

Section 992(b)(1)(A) of the Internal Revenue Code¹ provides that an election by a corporation to be treated as a DISC² 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.

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.

¹ All section references are to the Internal Revenue Code.

² As used in this letter, the terms “IC-DISC” and “DISC” have the same meaning.

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.

Section 992(a)(1) provides that the term "DISC" means, with respect to any taxable year, a corporation that is incorporated under the laws of any state and satisfies a number of conditions, including that such corporation does not have more than one class of stock, and that the par or stated value of its outstanding stock is at least \$2,500 on each day of the taxable year.

Section 996(g) provides that, in the case of a shareholder who is a nonresident alien individual or a foreign corporation, trust, or estate, gains referred to in section 995(c) and all distributions out of accumulated DISC income including deemed distributions shall be treated as gains and distributions derived from sources within the United States that are effectively connected with the conduct of a trade or business in the United States, and if the shareholder is entitled to treaty benefits under a treaty, treated as conducted through a permanent establishment of such shareholder within the United States.

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.

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). All distributions made to Foreign Owner out of accumulated DISC income including deemed distributions shall be treated as gains and distributions which are effectively connected with the conduct of a trade or business conducted through a permanent establishment of the Foreign Owner in the United States.

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.

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

Sincerely,

Marissa K. Rensen
Senior Counsel, Branch 6
Office of Associate Chief Counsel (International)

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

cc: