

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201839007**

Release Date: 9/28/2018

Index Number: 9100.22-00, 992.02-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B06
PLR-103932-18

Date:
June 28, 2018

TY:

Legend

Taxpayer =

Law Firm =

Partnership 1 =

Partnership 2 =

Partnership 3 =

Partnership 4 =

Partner 1 =

Partner 2 =

Partner 3 =

Partner 4 =

President =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This responds to a letter dated January 29, 2018, submitted by Law 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 Law Firm, and accompanied by penalties of perjury statements executed by the appropriate parties. This office has not verified any of the

materials submitted in support of the request for rulings. They are subject to verification on examination.

Facts

Taxpayer is a domestic corporation wholly owned by Partnership 1, Partnership 2, Partnership 3, and Partnership 4. These Partnerships are equally owned by Partner 1, Partner 2, Partner 3, and Partner 4. Taxpayer was incorporated on Date 1 and was intended to be treated as an interest charge domestic international sales corporation ("IC-DISC"). President of Taxpayer relied on Law Firm for advice and assistance with arranging for Taxpayer to qualify as an IC-DISC, including preparation and filing of Form 4876-A. Taxpayer executed Form 4876-A on Date 2, and Law Firm, in its affidavit, avers that it mailed this form to the IRS but is unclear why the IRS did not receive it.

On Date 3, Taxpayer's Form 1120-IC-DISC ("Interest Charge Domestic International Sales Corporation Return") was filed for its taxable year ended Date 4. Taxpayer later received correspondence from the Service stating that it had received a Form 1120-IC-DISC for Taxpayer, but had not received a Form 4876-A for Taxpayer.

Law Firm submitted this request for relief on behalf of Taxpayer under Treas. Reg. § 301.9100-3 for an extension of time to file Form 4876-A.

Law and Analysis

Section 992(b)(1)(A) of the Internal Revenue Code ("Code") 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.

Section 992(b)(1)(B) of the Code 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.

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 extension 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 in fact 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 Form 4876-A and 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, this letter does not express or imply any opinion 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
Branch Chief, Branch 6
(International)

Enclosures (2)

cc: