

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:INTL:B01

PLR-100231-21

Date:

May 05, 2021

Legend

Taxpayer =

Foreign
Partnership =
US LLC =

US Corporation =

Country X =

Country Y =

Date A =

Date B =

Date C =

Year 1 =

Year 2 =

Year 3 =

Dear _____ :

This is in response to your letter dated August 19, 2020, requesting an extension of time under Treas. Reg. § 301.9100-1(c) and Treas. Reg. § 301.9100-3 for Taxpayer to file a Form 8848 (Consent to Extend the Time to Assess the Branch Profits Tax Under Regulations Sections 1.884-2(a) and (c)). The ruling contained in this letter is based upon facts and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Taxpayer is a corporation organized under the laws of Country X. As of the beginning of Year 1, Taxpayer owned an interest in Foreign Partnership, a partnership organized in Country Y. Foreign Partnership held indirect interests in US LLC, a domestic limited liability company that was treated as a partnership for U.S. tax purposes and that was engaged in a U.S. trade or business. As a consequence, Taxpayer was engaged in a U.S. trade or business.

On Date A of Year 1, US LLC sold its U.S. business and domestic corporation stock to a third party. The parties agreed to treat the portion of the sales proceeds held in escrow until Year 2 as proceeds from an installment sale within the meaning of section 453. For all subsequent periods through the date of the request, Taxpayer represents that it has not, nor has any related corporation, used the proceeds from the sale of the U.S. business in the conduct of another U.S. trade or business, as provided in Treas. Reg. § 1.884-2T(a)(2).

On Date B of Year 1, Taxpayer's shareholder adopted an irrevocable resolution to liquidate and dissolve Taxpayer before the close of the immediately succeeding taxable year. Taxpayer determined that its interest in Foreign Partnership qualified, in part, as a U.S. asset pursuant to Treas. Reg. § 1.884-1(d)(3) and Treas. Reg. § 1.884-1(d)(2)(iii). Taxpayer represents that its only effectively connected income derived in all subsequent periods through the date of the request was income that is treated as effectively connected solely by reason of section 864(c)(6).

Taxpayer filed its Form 1120-F for Year 1 on Date C of Year 3, approximately five months after the due date for the return. Taxpayer attached Form 8848 to its Form 1120-F and included a disclosure statement informing the IRS that Taxpayer would be seeking relief under Treas. Reg. § 301.9100-1(c) and Treas. Reg. § 301.9100-3 for its untimely filing of Form 8848.

Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 8848. The IRS did not discover Taxpayer's failure to timely file the required statement before this request for relief was filed.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in Treas. Reg. § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section 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 the grant of relief will not prejudice the interests of the Government. Except as otherwise provided in Treas. Reg. § 301.9100-3(b)(3)(i) through (iii), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer requests relief before the failure to make the regulatory election is discovered by the IRS. Treas. Reg. § 301.9100-3(b)(1)(i).

In the present situation, Treas. Reg. § 1.884-2(c)(2)(iii) fixes the time to file Form 8848. 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 set forth in Treas. Reg. § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until Date C of Year 3 to file Form 8848. The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file Form 8848.

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 addition, no relief is provided with respect to any interest or penalties associated with the late filing of Form 1120-F.

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.

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

Sincerely,

Nancy J. Erwin
Branch Chief, Branch 1
Associate Chief Counsel (International)

Enclosure:
Copy for 6110 Purposes

cc: