

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-106146-23
Date:
September 11, 2023

TY:

Legend

- Taxpayer =
- Tax Consultant =
- Company =
- Foreign Owner =
- Individual =
- Country A =
- Month 1 =
- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =
- Year 1 =

Dear :

This responds to correspondences dated March 17, 2023, and June 5, 2023, submitted by Tax Consultant 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.

FACTS

Taxpayer and Company are domestic corporations wholly owned by Foreign Owner, a foreign entity organized in Country A. Taxpayer was formed to serve as an interest charge domestic international sales corporation (“IC-DISC”) and has established a commission arrangement with Company. Company employs Individual as Chief Financial Officer, while Taxpayer employs Individual as Treasurer.

In Month 1, Company decided to establish an IC-DISC and engaged Tax Consultant to organize and prepare all documents and filings needed to establish Taxpayer as in IC-DISC. On Date 1, Taxpayer was incorporated with Tax Consultant’s assistance.

Tax Consultant completed Form 4876-A and emailed a copy to Individual on Date 2. The Form 4876-A was delivered to Taxpayer and Individual on Date 3. Due to an inadvertent oversight by Individual, the Form 4876-A was not filed within 90 days after Date 1.

In correspondence dated Date 4, the Service informed Taxpayer that an approved Form 4876-A was not on file.

Tax Consultant 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 for Year 1, Taxpayer’s first taxable year.

LAW AND ANALYSIS

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

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

Treasury Regulation § 301.9100-1(c) gives the Commissioner discretion to 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.

Treasury Regulation § 301.9100-3(b)(1)(v) provides that a taxpayer is generally deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

CONCLUSION

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 90 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). 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.²

In accordance with section 996(g), Taxpayer should not accept any income tax treaty claims of reduced withholding under sections 1441 and 1442 with respect to distributions (deemed or otherwise) of accumulated DISC income.

² For example, no opinion is expressed regarding the consequences to any person under section 996(g).

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 representative.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Tax Consultant and accompanied by affidavits and 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 upon examination.

Sincerely,

L. Ulysses Chatman
Senior Counsel, Branch 6
Office of Associate Chief Counsel (International)

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

cc: