

**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:B06

PLR-116482-24

Date:

January 14, 2025

In Re:

TY:

Legend

Taxpayer =

Law Firm =

Accounting Firm =

Trust A =

Trust B =

Trust C =

Trust D =

Trust E =

Trust F =

Trust G =

CFO =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Date 9 =

Date 10 =

Date 11 =

Date 12 =

Year 1 =

Year 2 =

Dear \_\_\_\_\_ :

This responds to correspondence dated August 16, 2024, and August 28, 2024, submitted by Law Firm requesting that the Internal Revenue Service (“IRS”) 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”) to take effect for the tax year beginning Date 1.

### FACTS

Taxpayer was incorporated on Date 1 as an interest charge domestic international sales corporation (“IC-DISC”). Taxpayer represents that it did not conduct any operations until the following year, Year 2. Taxpayer is a domestic corporation owned by Trust A, Trust B, Trust C, Trust D, Trust E, Trust F, and Trust G. On Date 3, Law Firm, under Taxpayer’s instructions, filed Form 4876-A (“Election To Be Treated as an Interest Charge DISC”) with the IRS on behalf of Taxpayer. The attempted election was made within 90 days of the beginning of Year 2 and was intended to be effective as of Date 2. Law Firm received confirmation that the Form 4876-A had been received by the IRS. Date 1 is close to the beginning of Year 2; the intent of Taxpayer and its organizers all along had been for Taxpayer to function promptly and solely as an IC-DISC. Taxpayer assumed that it had completed all of the requirements necessary to operate as an IC-DISC and conducted its business as if it was an IC-DISC. Believing that it was an IC-DISC, Taxpayer filed an initial return, a Form 1120-IC-DISC prepared by Accounting Firm, with the IRS which was received on Date 4.

On Date 5, the IRS sent Taxpayer a letter stating that the Form 1120-IC-DISC could not be processed since the IRS did not have a Form 4876-A for Taxpayer on file. Taxpayer faxed the IRS a letter with a copy of the original Form 4876-A on Date 6. On Date 7, the IRS sent a letter stating that Taxpayer’s original Form 4876-A could not be processed because it was not signed by an officer of Taxpayer. The Date 7 letter was returned to the IRS as undeliverable, so on Date 8 the IRS sent Taxpayer a notice stating that previous tax information was returned as undeliverable with a copy of the Date 7 letter attached.

Even though Taxpayer assumed that it had met all the requirements to conduct business as an IC-DISC, it did not qualify as an IC-DISC for federal income tax purposes because the Form 4876-A that was filed with the IRS was missing an officer’s signature and, therefore, was invalid. Taxpayer represents that it did not realize the error regarding the missing signature until Accounting Firm received a notice from the IRS on Date 9, stating that Taxpayer’s Form 4876-A was not processed because it was missing an officer’s signature. On Date 10, Accounting Firm faxed a completed Form 4876-A with the CFO’s signature and a change of address form for Taxpayer to the IRS.

On Date 11, Accounting Firm filed Form 911 (“Request for Taxpayer Advocate Service Assistance”). On Date 12, Accounting Firm was informed by a Taxpayer Advocate

Agent that Taxpayer would need to request a Private Letter Ruling seeking an extension to file Form 4876-A. Law Firm submitted this request for relief on behalf of Taxpayer under Treas. Reg. §§ 301.9100-1 and 301.9100-3 for an extension of time to file Form 4876-A to take effect for the tax year beginning Date 1.

### **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 DISC<sup>1</sup> 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.

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.

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<sup>1</sup> As used in this letter, the terms “IC-DISC” and “DISC” have the same meaning.

Treasury Regulation § 301.9100-3(b)(1)(ii) provides that a taxpayer is generally deemed to have acted reasonably and in good faith if the taxpayer failed to make the election because of intervening events beyond the taxpayer's control.

### 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 to take effect for the tax year beginning Date 1.

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.<sup>2</sup>

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

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 Law Firm 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.

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

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Sincerely,

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Michelle L. Ng  
Senior Technical Reviewer, Branch 6  
Office of Associate Chief Counsel (International)

Enclosures (3)  
Copy of this letter  
Copies for § 6110 purposes

cc: