Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Release Number: 202647010
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Person to Contact: [redacted]

Management and Program Analyst

[redacted]

Telephone: [redacted]

Refer Reply To:

LB&I Eastern Compliance

Date: 8/5/2026

Legend

Parent	=	"*****"
Sub 1	=	"*****"
Date 1	=	"*****"
Date 2	=	"*****"
Date 3	=	"*****"
Date 4	=	"*****"
Date 5	=	"*****"

Dear Mr. "******":

This letter responds to correspondence dated Date 1 submitted on behalf of Parent and Sub 1 (the "Affiliated Group" for purposes of this letter and to the extent these entities meet the requirements of Internal Revenue Code ("I.R.C.") § 1504(a)), requesting that the Commissioner make a determination regarding the failure of Parent's wholly owned subsidiary Sub 1 to have consented to the filing of a consolidated return with Parent pursuant to Treas. Reg. § 1.1502-75(a)(1), (b)(1), and (h)(2) for the taxable year ended Date 2.

The determination contained in this letter is based upon facts and representations submitted by the taxpayers and accompanied by a penalties of perjury statement executed by an appropriate party.

SUMMARY OF FACTS

Sub 1 was formed on Date 3 and elected to be an S corporation (within the meaning of I.R.C. section §1361(a)). Parent was formed on Date 4 and elected to be a C corporation. On Date 5, Sub 1's shareholders sold all of the outstanding capital stock of Sub 1 to Parent.

Parent represents that it intended to file a consolidated tax return for the year ending on Date 2. It failed to do so in two respects: (i) Parent did not check the "consolidated return" box on its Form 1120; and (ii) Parent did not attach either a Form 851 ("Affiliations Schedule") or a Form 1122 on behalf of Sub1 ("Authorization and Consent of Subsidiary Corporation to be Included in a Consolidated Income Tax Return").

For the taxable year ending Date 2 and all subsequent years, Parent reported Sub 1's income and deductions on its Forms 1120. Sub 1 did not file a separate U.S. income tax return for any taxable year after Date 5.

At the time the Affiliated Group filed the request letter dated Date 1, the instant issue was not under examination or in litigation.

In this case, the Affiliated Group does not satisfy the requirements to obtain automatic relief under Rev. Proc. 2014-24. Consequently, Parent submitted this determination letter request.

REPRESENTATIONS

Parent represents that its U.S. income tax return for the taxable year ended Date 2 and all subsequent years contained all of the income and deductions of Sub 1.

Sub 1 has not filed a separate tax return after becoming affiliated with Parent on Date 5.

For the taxable year ending on Date 2, Sub 1 intended to consent to join in the making of a consolidated return.

LAW

The Internal Revenue Code ("I.R.C.") section 1501 provides, in relevant part:

> An affiliated group of corporations shall, subject to the provisions of this chapter, have the privilege of making a consolidated return with respect to the income tax imposed by chapter 1 for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all corporations which at any time during the taxable year have been members of the affiliated group consent to all the consolidated return regulations prescribed under section 1502 prior to the last day prescribed by law for the filing of such return. The making of a consolidated return shall be considered as such consent.

I.R.C. section 1504(a)(1) provides that the term "affiliated group" means: one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation, but only if:

(i) the common parent directly owns stock with at least 80% of the total voting power and 80% of the total value of at least one of the other includible corporations, and

(ii) stock with at least 80% of the total voting power and 80% of the total value of each of the includible corporations is directly owned by one or more of the other includible corporations.

Regarding the privilege of filing consolidated returns, Treas. Reg. § 1.1502-75(a) provides:

> (1) A group which did not file a consolidated return for the immediately preceding taxable year may file a consolidated return in lieu of separate returns for the taxable year, provided that each corporation which has been a member during any part of the taxable year for which the consolidated return is to be filed consents (in the manner provided in paragraph (b) of this section) to the regulations under section 1502. If a group wishes to exercise its privilege of filing a consolidated return, such consolidated return must be filed not later than the last day prescribed by law (including extensions of time) for the filing of the common parent's return. Such consolidated return may not be withdrawn after such last day (but the group may change the basis of its return at any time prior to such last day).
>
> (2) Continued filing requirement. A group which filed (or was required to file) a consolidated return for the immediately preceding taxable year is required to file a

consolidated return for the taxable year unless it has an election to discontinue filing consolidated returns under paragraph (c) of this section.

Regarding the method of exercising consent for the first consolidated year, Treas. Reg. § 1.1502-75(b) provides:

> (1) The consent of a corporation referred to in paragraph (a)(1) of this section is made by such corporation joining in the making of the consolidated return for such year. A corporation is deemed to have joined in the making of such return for such year if it files a Form 1122 in the manner specified in paragraph (h)(2) of this section.
>
> (2) (i) If a member of the group fails to file Form 1122, the Commissioner may under the facts and circumstances determine that such member has joined in the making of a consolidated return by such group. The following circumstances, among others, will be taken into account in making this determination:
>
> (A) Whether or not the income and deductions of the member were included in the consolidated return;
>
> (B) Whether or not a separate return was filed by the member for that taxable year; and,
>
> (C) Whether or not the member was included in the affiliations schedule, Form 851.
>
> (ii) If the Commissioner determines that the member has joined in the making of the consolidated return, such member shall be treated as if it had filed a Form 1122 for such year for purposes of paragraph (h)(2) of this section.
>
> (3) If any member has failed to join in the making of a consolidated return under either subparagraph (1) or (2) of this paragraph, then the tax liability of each member of the group is determined on the basis of separate returns unless the common parent corporation establishes to the satisfaction of the Commissioner that the failure of such member to join in the making of the consolidated return was due to a mistake of law or fact, or to inadvertence. In such case, such member is treated as if it had filed a Form 1122 for such year for purposes of paragraph (h)(2) of this section, and thus joined in the making of the consolidated return for such year.

Regarding when a group remains in existence, Treas. Reg. § 1.1502-75(d) provides, in relevant part:

> (1) A group remains in existence for a tax year if the common parent remains as the common parent and at least one subsidiary that was affiliated with it at the end of the prior year remains affiliated with it at the beginning of the year, whether or

not one or more corporations have ceased to be subsidiaries at any time after the group was formed.

Regarding the method by which the common parent must make a consolidated return for the group for the first taxable year, Treas. Reg. § 1.1502-75(h) provides, in relevant part:

(2) If, under the provisions of paragraph (a)(1) of this section, a group wishes to file a consolidated return for a taxable year, then a Form 1122 "Authorization and Consent of Subsidiary Corporation To Be Included in a Consolidated Income Tax Return" must be executed by each subsidiary. . . . Form 1122 is not required for a taxable year if a consolidated return was filed (or was required to be filed) by the group for the immediately preceding taxable year.

Rev. Proc. 2014-24, 2014-13 I.R.B. 879, allows an affiliated group that satisfies certain requirements to obtain an automatic determination to treat a subsidiary member of the affiliated group as if it filed a Form 1122, even though it failed to do so. Section 1.03 of Rev. Proc. 2014-24 provides that if an affiliated group cannot satisfy such requirements, a determination by the Commissioner under Treas. Reg. § 1.1502-75(b) is available only pursuant to a determination letter issued by a Director.

DETERMINATION

Based solely on the information submitted and the representations made in the determination letter request, it is determined that Treas. Reg. § 1.1502-75(b)(2) can be applied in this case. Accordingly, Sub 1 shall be treated as if it had filed Form 1122 in the manner specified in Treas. Reg. § 1.1502-75(h)(2) for the taxable year ended Date 2, and the Affiliated Group shall be treated as satisfying the requirements for filing a consolidated return for the taxable year ending on Date 2.

Parent must file an amended return for each and any open year to both check the "consolidated return" box on the face of the tax return and attach a Form 851, Affiliations Schedule, as necessary.

CAVEATS

Except as expressly provided herein, no opinion is expressed or implied concerning the U.S. income tax consequences of any aspect of any transaction or item discussed or referenced in this letter or about the tax treatment of any condition existing at the time of, or effects resulting from, any transaction or item that is not specifically covered by the above determination.

The determination contained in this letter is based upon information and representations submitted by the taxpayers and accompanied by a penalty of perjury declaration executed by an appropriate party.

PROCEDURAL MATTERS

This determination is directed only to the taxpayers who requested it. I.R.C. section 6110(k)(3) provides that it may not be used or cited as precedent.

This office will associate a copy of this determination letter with Parent's U.S. income tax returns. A copy of this determination letter should be kept in Parent's permanent records.

A copy of this determination 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 returns that provides the date and control number of the determination letter.

Sincerely,

Acting Director, Field Operations Southeast, Eastern Compliance