

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B04 – PLR-171107-03

Date:
March 10, 2005

In Re:

LEGEND

Taxpayer =

Former Parent =

Subsidiary One =

Subsidiary Two =

Subsidiary Three =

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Subsidiary Four =

Country V =

Country W =

Country X =

Country Y =

Country Z =

Date A =

Date B =

Date C =

Date D =

Business A =

Individual A =

Individual B =

Accounting Firm =

Dear :

This replies to a letter dated December 5, 2003, in which Taxpayer requests an extension of time under Treas. Reg. § 301-9100-1 and Treas. Reg. § 301.9100-3 to attach to Taxpayer's U.S. consolidated federal income tax return for the tax year ended on Date B the documentation required under Treas. Reg. § 1.1503-2(g)(2)(iii)(B) to

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rebut the presumption of triggering events that occurred during the tax year ended on Date B with respect to dual consolidated losses incurred in the tax year ended on Date A. The information submitted for consideration is substantially as set forth below.

The rulings contained in this letter are based upon information 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 rulings. Verification of the factual information, representations, and other data may be required as a part of the audit process.

Taxpayer, a domestic corporation is the common parent of an affiliated group of corporations that files a U.S. consolidated federal income tax return pursuant to § 1502 of the Internal Revenue Code (the Code). Before Date C, Former Parent was the common parent of a consolidated group that filed a U.S. consolidated federal income tax return that included Taxpayer and its subsidiaries.

During the tax year ending on Date A, the ownership of Former Parent's group was as follows: Former Parent owned 100 percent of Taxpayer, Taxpayer owned 100 percent of Subsidiary One and Subsidiary Four, Subsidiary One owned 100 percent of Subsidiary Two, and Subsidiary Two owned 100 percent of Subsidiary Three.

Subsidiary Three was engaged in Business A with its principal place of business in County W as an unincorporated foreign branch. Subsidiary Four was engaged in Business A as an unincorporated foreign branch in Countries W, X, Y, and Z. These foreign branches were separate units as defined under Treas. Reg. § 1.1503-2(c)(3)(i)(A).

In the tax year ended on Date D, Taxpayer engaged Accounting Firm to provide tax consulting and compliance services related to Taxpayer's tax year ended on Date B. During the tax year ended on Date D, Accounting Firm confirmed that Taxpayer and its predecessor, Former Parent, had triggering events under the dual consolidated loss rules for prior years, and that certain administrative procedures under the Code § 1503(d) regulations were not followed. Subsequent to the preparation of Taxpayer's U.S. consolidated federal income tax return for the tax year ended on Date B, Accounting Firm became aware of certain additional triggering events for the year ended on Date B.

Specifically, during the tax year ended on Date B, Subsidiary Three's assets were transferred to Subsidiary Four's separate unit in Country X, and the assets were then subsequently sold to unrelated parties. The sale of the assets constituted a triggering event under Treas. Reg. § 1.1503-2(g)(2)(iii)(A)(5). Taxpayer states that it should have attached documentation as required under Treas. Reg. § 1.1503-

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2(g)(2)(iii)(B) to its tax return for the tax year ended on Date B regarding the asset sale of Subsidiary Four's separate unit in Country X. This documentation was omitted from Taxpayer's tax return for the tax year ended on Date B.

In addition, all of Subsidiary Four's separate units in Countries W, X, Y, and Z transferred or sold all of their assets to either Subsidiary Four, other foreign branches of Subsidiary Four, or to unrelated parties. Each transfer and sale of assets constituted a triggering event under Treas. Reg. § 1.1503-2(g)(2)(iii)(A)(5).

Individual A is the Senior Vice President, CFO, and Treasurer of Taxpayer. Individual B is a partner with Accounting Firm and is responsible for providing tax consulting services and tax compliance services relating to Taxpayer's tax year ending on Date B. The affidavits of Individuals A and B and the facts submitted describe the circumstances surrounding the discovery of and the reasons for Taxpayer's failure to attach the documentation required by Treas. Reg. § 1.1503-2(g)(2)(iii)(B) to its tax return for the year ended on Date B.

Treas. Reg. § 301.9100-1(b) provides that an election includes an application for relief in respect of tax, and 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. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in Treas. Reg. § 301.9100-3, to make a regulatory election under all subtitles of the Code, except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-3(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.

In the present situation, the documentation required by Treas. Reg. § 1.1503-2(g)(2)(iii)(B) 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 rules set forth in Treas. Reg. § 301.9100-3(a).

Based solely on the facts and information submitted, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this ruling letter to attach to its U.S. income tax return for year ended on Date B the documentation required under Treas. Reg. § 1.1503-

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2(g)(2)(iii)(B) to rebut the presumption that the transactions that occurred during the tax year ending on Date B were triggering events within the meaning of Treas. Reg. § 1.1503-2(g)(2)(iii)(A)(5).

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to attach the documentation to its tax return for the tax year ended on Date B. Treas. Reg. § 301.9100-1(a). Specifically, this ruling is not a determination as to whether Taxpayer has rebutted the presumption that the transactions that occurred during the tax year ending on Date B were triggering events within the meaning of Treas. Reg. § 1.1503-2(g)(2)(iii)(A). This determination will be made by the office of the industry director having examination jurisdiction over the tax return for the tax year at issue.

This ruling is directed only to the taxpayer who requested it. Code § 6110(k)(3) provides that it may not be used or cited as precedent.

A copy of this ruling letter should be associated with the documents.

No ruling has been requested, and none is expressed as to the application of any other section of the Code or regulations to the facts presented.

Pursuant to a power of attorney on file in this office, a copy of this letter is being furnished to your authorized representative.

Sincerely,

Joseph M. Calianno
Special Counsel to the Deputy
Associate Chief Counsel (International)