

## 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-127270-18

Date:

March 05, 2019

### Legend

Taxpayer =  
Opco =  
Accounting Firm =  
Date 1 =  
Date 2 =  
Year =

Dear :

This responds to a letter dated July 10, 2018, submitted on behalf of Taxpayer, 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 ("DISC election") for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Accounting Firm, and accompanied by penalty of perjury statements executed by appropriate parties. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

### Facts

Taxpayer is a domestic corporation wholly owned by Opco. Opco is a domestic "C" corporation. Taxpayer operates under a commission arrangement with Opco. Accounting Firm was engaged to perform consulting and compliance work for Opco and, as part of that engagement, advised Opco of benefits an interest charge domestic international sales corporation ("IC-DISC") may provide.

Taxpayer was incorporated on Date 1, early in Year, and was intended to be treated as an IC-DISC from inception. On or about Date 1, Taxpayer entered into a "Commission / Sales Agreement" with Opco that is framed by reference to the domestic international sales corporation ("DISC")<sup>1</sup> provisions of the Internal Revenue Code, and Taxpayer's board of directors adopted an initial resolution for Taxpayer to timely elect DISC status. Taxpayer proceeded to operate as a DISC.

Following its incorporation, Accounting Firm prepared a Form 4876-A for Taxpayer and provided the form to Taxpayer with instructions to execute and file it no later than Date 2. Accounting Firm subsequently reminded Taxpayer to file the election.

Later in Year, Accounting Firm followed up with Taxpayer for a copy of the executed Form 4876-A, and it was discovered that Taxpayer failed to file Form 4876-A. Taxpayer apparently misunderstood who was responsible for filing Form 4876-A. Taxpayer and Opco do not have employees with specific tax expertise. Both primarily rely on their outside advisors for all tax matters. Neither often handles matters similar to DISC elections.

Accounting Firm then advised Taxpayer that Taxpayer could apply for an extension of time to make the election under Treas. Reg. §§ 301.9100-1 and 301.9100-3. Taxpayer immediately chose to pursue this extension, and had Accounting Firm prepare the request letter.

### Law and Analysis

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC 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.

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

Treasury Regulation § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may 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.

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 60 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.

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.

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.

Sincerely,

Angela E. Holland  
Senior Counsel, Branch 6  
Office of Associate Chief Counsel  
(International)