

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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[Third Party Communication:  
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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:INTL:BR1  
PLR-143509-10

Date:  
June 20, 2011

TY:

Legend

Taxpayer =  
Country X Entity =  
LLC =  
FP =  
Date 1 =  
Date 2 =  
Year 3 =  
Date 4 =  
Date 5 =  
Date 6 =  
Date 7 =

Dear :

This replies to a letter dated October 5, 2010, as supplemented by correspondence dated January 19, 2011, April 11, 2011, April 21, 2011, and June 6, 2011, from your authorized representative, in which you request an extension of time under Treas. Reg. §§ 301.9100-1(c) and 301.9100-3 to file a Form 8848, *Consent to Extend the Time to Assess the Branch Profits Tax Under Regulations Sections 1.884-2T(a) and (c)*.

Taxpayer was a Country X Entity that was treated as a corporation for U.S. tax purposes. Taxpayer held interests in a domestic limited liability company (LLC) that was treated as a partnership for U.S. tax purposes. LLC held partnership interests in two domestic partnerships that were engaged in a U.S. trade or business. As a consequence, Taxpayer was engaged in a U.S. trade or business for all years including Year 3. LLC withheld 35 percent income tax on Taxpayer's allocable share of effectively connected income as required by I.R.C. § 1446.

Taxpayer's sole shareholder was FP, a Country X Entity that was classified as a partnership for U.S. tax purposes. On Date 1 in Year 3, certain of FP's owners sold all of their interests in FP to third parties. Pursuant to the purchase agreement, Taxpayer was required to make an election under Treas. Reg. § 301.7701-3 to be classified as an entity disregarded as separate from its owner and to file Form 8832, *Entity Classification Election*, effective Date 2 of Year 3 (the close of Taxpayer's year of complete termination). Pursuant to Treas. Reg. § 301.7701-3(g)(1)(iii), as a consequence of the election, Taxpayer was deemed to have distributed all of its assets and liabilities to FP, its single member owner in complete liquidation.

Taxpayer had three different tax advisors, which led to confusion as to which of the advisors was responsible for preparing the tax returns for Year 3. Taxpayer's final Form 1120-F, *U.S. Income Tax Return of a Foreign Corporation*, for Year 3 was due on or before Date 4. One of Taxpayer's tax advisors discovered the failure to file Form 1120-F around Date 5. On or about Date 6, Taxpayer remitted to the IRS an estimated tax payment with respect to Year 3. Taxpayer filed its Form 1120-F for Year 3 on Date 7. Taxpayer included a completed but unsigned Form 8848 with its return, along with a disclosure statement informing the Service that it would be seeking relief for its untimely filing of Form 8848 under Treas. Reg. §§ 301.9100-1(c) and 301.9100-3. Taxpayer now requests that relief.

Taxpayer represents, as required by Treas. Reg. § 1.884-2T(a)(2):

- (1) As of Date 2 of Year 3, Taxpayer held no U.S. assets.
- (2) Neither Taxpayer nor a related corporation (within the meaning of Treas. Reg. § 1.884-2T(a)(2)(iv)) used, directly or indirectly, in the conduct of a trade or business in the United States at any time during the three-year period following Date 2 of Year 3: (a) any of Taxpayer's U.S. assets; (b) any property attributable to Taxpayer's U.S. assets; or (c) any property attributable to the effectively connected earnings and profits of Taxpayer for Year 3.
- (3) Taxpayer did not have any income that was, or was treated as, effectively connected income during the three-year period following Date 2 of Year 3.

The entities that sold all of their interests in FP to third parties also represent that they did not use, directly or indirectly, any of the income attributable to the sale of FP in the conduct of a U.S. trade or business at any time during the three-year period following Date 2 of Year 3, including investing in stock in a domestic corporation, or loaning to a related corporation or used as security for any indebtedness of a related corporation in the conduct of a U.S. trade or business. The noncorporate entities further represented that none of the sales proceeds were reinvested, directly or indirectly, in a U.S. trade or business through a corporation.

Treas. Reg. § 1.884-2(a)(2)(ii) provides that the waiver referred to in Treas. Reg. § 1.884-2T(a)(2)(i)(D) must be executed on Form 8848 on or before the date (including

extensions) prescribed for filing the foreign corporation's income tax return for the year of complete termination and extend the period of assessment of the branch profits tax for the year of complete termination to a date not earlier than the close of the sixth taxable year following that taxable year.

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in Treas. Reg. § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) 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. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

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.

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a) and is granted an extension of time to file a signed Form 8848.

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. Specifically, as provided in Treas. Reg. § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file Form 8848.

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.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. 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.

Sincerely,

Elizabeth U. Karzon  
Branch Chief, Branch 1  
(International)

cc: