

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202013014**
Release Date: 3/27/2020
Index Number: 9100.09-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:ITA:B05
PLR-121404-19
Date:
November 13, 2019

EIN:

In re:
EIN:
Year 1:

Dear :

This ruling is in reference to the taxpayer's request that a certain Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, be considered timely filed under the authority in § 301.9100-3 of the Procedures and Administration Regulations.

Taxpayer's Form 5471 electing under § 898(c)(2) of the Internal Revenue Code a taxable year beginning 1 month earlier than the majority U.S. shareholder year under the testing date of Prop. Reg. § 1.898-3(a)(5)(iii) was due on May 15, 2019, but was not filed by that date. Taxpayer had engaged a qualified tax professional in order to assure a proper filing. The error was not due to any lack of due diligence or prompt action on the part of the taxpayer. Although the Form 5471 was not filed by the due date, taxpayer requested an extension of time to file Form 5471 under § 301.9100-3 soon thereafter.

Section 898(c)(3)(B) provides that the testing days shall be the first day of the corporation's taxable year or the days during such representative period as the Secretary may prescribe. Prop. Regs. § 1.898-3(a)(5)(iii) provides, that a specified foreign corporation must determine its majority U.S. shareholder year on each day, since the most recent testing day on which a substantial change occurs in the United States ownership of the stock of the specified foreign corporation. To comply with the requirements, Form 5471 must be filed by the CFC's U.S. shareholder(s) with the shareholder(s) federal income tax return for the CFC's taxable year that ends with or within the taxable year of the U.S. shareholder. The CFC's controlling domestic shareholder must indicate the change in taxable year on the Form 5471.

Section 301.9100-1 set forth rules respecting the granting of extensions of time for making certain elections. Under these rules, the Commissioner in his discretion may grant a reasonable extension of time to make a regulatory election under subtitle A, provided the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interest of the government.

Section 301.9100-3(a) provides that requests for extensions of time for regulatory election that do not meet the requirements of § 301.9100-2 (automatic extensions), such as the instant case, must be made under the rules of § 301.9100-3. The standards applied are whether the taxpayer acted reasonably and in good faith in the matter, and whether the granting of relief will prejudice the interest of the government. Generally, the request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that the granting of relief will not prejudice the interest of the government.

The information submitted and representations furnished by Taxpayer and its tax professionals establish that Taxpayer acted reasonably and in good faith in respect of this matter. Furthermore, we have determined that the granting of relief in this case will not prejudice the interest of the government within the intendment of § 301-9100-3(c)(1). Accordingly, the requirements of § 301.9100-3 for the granting of relief have been satisfied.

A copy of this letter and Taxpayer's Form 5471 filed in connection with this ruling request must be forwarded to the service center where the taxpayer files its income tax returns, so as to affect a taxable year ending December 31, effective for taxpayer's taxable year ending _____, Year 1.

This ruling is based upon facts and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This ruling is also conditioned on Taxpayer complying with § 898(c) which provides the rules in the determination of a required year of a CFC.

Except for the specific request above, which is restricted to the filing of Form 5471, making a one month deferral election under § 898(c)(2) using the testing date provisions in Prop. Regs. § 1.898-3(a)(5)(iii) we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Code or regulations that may be applicable thereto.

In accordance with the provisions of a power of attorney currently on file with this office, a copy of this letter ruling is being sent to the Taxpayer's authorized representative.

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

Enclosed is a copy of the letter ruling showing the deletions proposed to be made when it is disclosed under § 6110.

Sincerely,

William A. Jackson
Branch Chief, Branch 5
(Income Tax & Accounting)
Office of Chief Counsel

cc: