

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:INTL:B06
PLR-109171-19

Date:
July 31, 2019

LEGEND

Taxpayer =
Shareholder =
Law Firm =
Date 1 =
Date 2 =
Date 3 =

Dear :

This letter responds to correspondence dated April 18, 2019 and June 19, 2019 requesting that the Internal Revenue Service ("Service") 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") for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Law Firm and accompanied by affidavits and penalties of perjury statements executed by the appropriate parties. This office has not verified any of the materials submitted in support of the request for rulings. They are subject to verification on examination.

FACTS

Taxpayer is a domestic corporation that was formed on Date 1 for the purpose of qualifying and operating as an interest charge domestic international sales corporation ("IC-DISC"). Taxpayer is wholly owned by Shareholder. Shareholder on behalf of Taxpayer retained Law Firm to assist in Taxpayer's qualification as an IC-DISC. Law Firm undertook the legal process associated with the formation of the IC-DISC on Date 1, but failed to file Form 4876-A by the appropriate deadline.

Law Firm failed to file Form 4876-A because a partner at Law Firm did not confirm that Form 4876-A was properly prepared and filed by staff.

In preparing Taxpayer's tax return for its first taxable year ending on Date 2, Taxpayer's accountant contacted Law Firm to request a copy of Form 4876-A. After discovering that it did not have a final copy of Form 4876-A because the form had never been filed with the Service, Law Firm promptly notified Taxpayer on Date 3 of its error. Until that date, Taxpayer was unaware that Law Firm had failed to file Form 4876-A on its behalf.

As a result, Taxpayer has requested a ruling that grants a 60-day extension of time from the date of the ruling to file Form 4876-A and that such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

LAW AND ANALYSIS

Section 992(b)(1)(A) of the Internal Revenue Code ("Code") provides that an election by a corporation to be treated as an IC-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) of the Code 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 taxable year for which such election is effective consent to such election.

Treas. Reg. § 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.

Treas. Reg. § 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.

Treas. Reg. § 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.

Treas. Reg. § 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

elections) 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.

In the present situation, the election described in Treas. Reg. § 1.921-1T(b)(1) 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 the Taxpayer satisfies the standards for relief set forth in Treas. Reg. § 301.9100-3.

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). Taxpayer should attach a copy of this ruling letter to its Form 4876-A and Federal income tax return for the taxable years to which this letter applies. 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. Except as expressly provided herein, this letter does not express or imply any opinion concerning the tax consequences of any aspect or item discussed or referenced in this letter.

Pursuant to a Power of Attorney on file in this office, a copy of this ruling letter is being furnished to your authorized representative.

Sincerely,

Kenneth A. Jeruchim
Acting Senior Technical Reviewer, Branch 4
Office of Associate Chief Counsel (International)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: