

## 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-146378-12

Date:  
April 04, 2013

### Legend

Taxpayer =  
Accounting Firm =  
LLC =  
Corporation =  
Year 1 =  
Year 2 =  
Law Firm =  
Date 1 =

Dear :

This responds to a letter dated October 19, 2012, submitted by Accounting Firm requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. § 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 Accounting Firm, and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. 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 that provides foreign sales export assistance to LLC, which owns and operates a fishing vessel.<sup>1</sup> LLC owns % of Taxpayer. Corporation owns % of LLC.

Accounting Firm provides tax and accounting services to Corporation and its subsidiaries. In December of Year 1, Accounting Firm recommended that Corporation form an interest charge domestic international sales corporation ("IC-DISC"). Corporation, as the majority owner and managing member of LLC, engaged Law Firm to assist with the formation of Taxpayer with the intention that Taxpayer would elect to be treated as an IC-DISC. Taxpayer was incorporated on Date 1 in Year 2. Corporation relied on Law Firm and Accounting Firm to comply with section 992 in order for Taxpayer to be treated as an IC-DISC with a taxable year beginning on Date 1. Due to an administrative error, Law Firm believed that Accounting Firm had filed Form 4876-A on behalf of Taxpayer, and Accounting Firm believed that Law Firm had filed the form. The error was discovered in September of Year 2, when Accounting Firm requested a number of documents, including the Form 4876-A, from Taxpayer. Soon after Accounting Firm discovered that Taxpayer failed to file Form 4876-A within 90 days of the start of its first taxable year, Accounting Firm submitted a request for relief under Treas. Reg. § 301.9100-3 for an extension of time to file the IC-DISC election effective Date 1.

## LAW AND ANALYSIS

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC<sup>2</sup> 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.

Temp. 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.

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<sup>1</sup> We express no opinion as to whether the fishing activities occur within the United States.

<sup>2</sup> As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

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 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 beginning Date 1.

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 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, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, copies of this letter are being sent to your authorized representatives.

Sincerely,

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Joseph L. Tobin  
Senior Counsel, Branch 6  
Office of Associate Chief Counsel (International)