

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B06
PLR-103688-15

Date:
June 05, 2015

TY:

Legend

- Taxpayer =
- Management Firm =
- Company =
- Individual A =
- Individual B =
- Individual C =
- Individual D =
- Corporation A =
- Corporation B =
- Corporation C =
- Partnership A =
- Partnership B =
- Partnership C =
- Month 1 =
- Month 2 =
- Date 1 =
- Date 2 =
- Date 3 =
- Date 4 =

Dear :

This responds to a letter dated January 27, 2015, submitted by Taxpayer 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 ruling contained in this letter is based upon information and representations submitted by Taxpayer and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. This office has not verified any of the materials submitted in support of the request for a ruling. It is subject to verification on examination.

FACTS

Taxpayer is a domestic corporation wholly owned by Individuals A, B, C, and D, Corporations A, B, and C, and Partnerships A, B, and C. Taxpayer was incorporated on Date 1 for the purpose of operating as an interest charge domestic international sales corporation (“IC-DISC”). Individuals A, B, and C, Corporations A, B, and C, and Partnerships A, B, and C own the majority of the outstanding stock of Company, Taxpayer’s related supplier.

Prior to Date 1, Company consulted with Management Firm for assistance with incorporation and establishment of an IC-DISC. In Month 1, the Management Firm employee who serviced Taxpayer’s account was terminated and, around the same time, a key Management Firm staff member retired. As a result of these personnel changes, the IC-DISC election deadline did not get properly entered into Management Firm’s tracking system after Taxpayer’s incorporation on Date 1.

Between Date 1 and Month 2, Company considered potential ownership structures for Taxpayer. In Month 2, Company settled on an ownership structure for Taxpayer and engaged Management Firm to prepare the necessary organizational documents, including Form 4876-A. On Date 2, Taxpayer’s shareholders made their respective capital contributions to Taxpayer.

On Date 3, Management Firm received the signed organizational documents, including Form 4876-A. On the same day, Management Firm submitted the signed Form 4876-A to the Service by Federal Express with an incorrect zip code for the IRS Service Center. On Date 4, the Service notified Taxpayer that Taxpayer’s Form 4876-A had not been timely filed.

In order to operate as an IC-DISC beginning on Date 1, Taxpayer requested a ruling granting an extension of time to file Form 4876-A for its first taxable year.

LAW AND ANALYSIS

Section 992(b)(1)(A) of the Internal Revenue Code (the “Code”) provides that an election by a corporation to be treated as a DISC¹ shall be made by such corporation for

¹ As used in this letter, the terms “IC-DISC” and “DISC” have the same meaning.

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.

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.

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 first taxable year for which such election is effective consent to such election.

Section 992(a)(1)(C) provides that the term "DISC" means, with respect to any taxable year, a corporation that is incorporated under the laws of any state and satisfies a number of conditions, including that such corporation does not have more than one class of stock, and that the par or stated value of its outstanding stock is at least \$2,500 on each day of the taxable year.

Treas. Reg. § 1.992-1(d)(1) provides that, in the case of a corporation which elects to be treated as a DISC for its first taxable year, the capitalization requirement of section 992(a)(1)(C) is satisfied for that year if the corporation has no more than one class of stock at any time during the year and the par value (or, in the case of stock without par value, the stated value) of the corporation's outstanding stock is at least \$2,500 on the last day of the period within which the election must be made and on each succeeding day of the year.

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). The facts provided in the letter submitted by Taxpayer dated January 27, 2015, indicate that Taxpayer failed to qualify as an IC-DISC for its first taxable year because Taxpayer did not satisfy the capitalization requirement under section 992(a)(1)(C) and Treas. Reg. § 1.992-1(d)(1).

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, 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, a copy of this ruling letter is being sent to your authorized representative.

Sincerely,

Angela E. Holland
Assistant to the Branch Chief, Branch 6
Office of Associate Chief Counsel (International)

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

cc: