

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-109167-16

Date:
July 07, 2016

In Re:

LEGEND

Taxpayer=
Law Firm=
Accounting Firm=
Company=
CEO=
CFO=
Treasurer=
Year 1=
Date 1=
Date 2=
Date 3=
Date 4=
Date 5=

Dear :

This responds to a letter dated March 7, 2016, supplemented by a letter dated June 10, 2016, submitted by Accounting Firm 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 Accounting Firm, 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 rulings. It is subject to verification on examination.

FACTS

Taxpayer is a domestic corporation that assists Company with the export of property. Taxpayer is wholly-owned by Company. Several shareholders own Company. Taxpayer's management, consisting of its President and CEO, CFO, and Treasurer, also serves as Company's management.

In Year 1, Accounting Firm advised Company's management of the benefits associated with operating an interest charge domestic international sales corporation ("IC-DISC"). Company's management was not experienced in international tax matters or familiar with IC-DISC matters. After deciding to form Taxpayer as an IC-DISC, Company's management engaged Law Firm to form Taxpayer and engaged Accounting Firm to ensure all appropriate documents were identified, prepared, and executed as required by law. Taxpayer relied on Accounting Firm and Law Firm to organize and to prepare all documents and filings needed to establish Taxpayer as an IC-DISC. As a result, Taxpayer was incorporated on Date 1 with the sole purpose of qualifying and operating as an IC-DISC. Taxpayer began operating as an IC-DISC on Date 1.

Law Firm forwarded the formation documents to the CEO, CFO, and Treasurer on Date 2. Law Firm expected that any further necessary steps would be advised by Accounting Firm. Accordingly, Accounting Firm prepared Form 4876-A and delivered it to the Treasurer of Taxpayer on Date 3. Taxpayer's management mistakenly believed that Accounting Firm had filed Form 4876-A on Taxpayer's behalf and that Accounting Firm's correspondence received by Treasurer on Date 3 was a confirmation of that filing. However, Accounting Firm had not filed Form 4876-A and did not file it. Further, Taxpayer's management believed that all requirements for Taxpayer to operate as an IC-DISC were satisfied. On Date 4, Taxpayer filed its Form 1120-IC-DISC for Year 1. Taxpayer received a notice from the Service informing Taxpayer that it had failed to timely file Form 4876-A on Date 5. Until then, Taxpayer had not received any notice and was not otherwise aware that a Form 4876-A had not been filed.

After discovering that a Form 4876-A had not been filed, 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.

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.

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.

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). A copy of this letter ruling should be filed with Taxpayer's Form 4876-A.

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.

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

Sincerely,

Joseph Dewald
Senior Technical Reviewer, Branch 6
Office of Associate Chief Counsel (International)

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