

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201717015**
Release Date: 4/28/2017

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 9100.22-00, 992.02-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL:B06
PLR-127281-16

Date:
January 18, 2017

In Re:

LEGEND

Taxpayer=
Company=
Accounting Firm=
Law Firm=
Year 1=
Date 1=
Date 2=
Date 3=

Dear _____ :

This responds to a letter dated August 31, 2016, supplemented by a letter dated January 10, 2017, submitted by your representatives 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 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 sells food products under a commission arrangement with Company. Taxpayer is wholly-owned by Company.

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 to ensure all appropriate documents were identified, prepared, and executed as required by law. Company's management further 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.

Law Firm forwarded the formation documents to Accounting Firm on Date 2 with a statement that Law Firm expected that the filing of Form 4876-A would be completed by Accounting Firm. However, Accounting Firm inadvertently overlooked Law Firm's communication regarding its expectation that Accounting Firm would prepare and file the Form 4876-A. As a result, Accounting Firm mistakenly believed that Law Firm had filed the Form 4876-A and the Form 4876-A was not filed.

Believing that all of the requirements to conduct business and be treated as an IC-DISC for its first taxable year were satisfied, Taxpayer began operating as an IC-DISC on Date 1. On Date 3, which was before Taxpayer's tax return for its first taxable year was due, Accounting Firm discovered that a Form 4876-A for Taxpayer had not been filed.

Upon discovery of this error, and 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 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.

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

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). Taxpayer should attach a copy of this letter ruling to its Federal income tax return for the taxable years to which it relates.

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 representative.

Sincerely,

Marissa K. Rensen
Senior Counsel, Branch 6
Office of Associate Chief Counsel (International)

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

cc: