

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:B01
PLR-101251-24

In Re:

Date:
May 22, 2024

Legend

Taxpayer =

Country X =

Year 1 =

Year 2 =

Date A =

Date B =

CPA Firm =

Dear :

This responds to the request dated January 22, 2024, submitted on your behalf by your authorized representative, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to make an election under Treas. Reg. § 1.884-1(e)(3) to reduce its U.S. liabilities for purposes of computing its branch profits tax liability under section 884.

The ruling contained in this letter is based upon facts and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the material submitted in support of the request for a ruling. Verification of the factual information, representations, and other data may be required as a part of the audit process.

FACTS

Taxpayer is a company formed under the laws of Country X that is classified as a corporation for federal income tax purposes. Taxpayer engaged CPA Firm for tax compliance matters, including the preparation and filing of the appropriate U.S. federal income tax returns.

During Year 1, Taxpayer had effectively connected earnings and profits potentially subject to the branch profits tax under section 884. On Date A, Taxpayer timely filed its Form 1120-F for Year 1 and reported an increase in U.S. net equity that fully offset its effectively connected earnings and profits and a liability reduction election amount of zero, consistent with the limitation under Treas. Reg. § 1.884-1(e)(3)(ii).

In Year 2, Taxpayer and CPA Firm had determined that the amount of U.S. net equity reported on Taxpayer's original Form 1120-F for Year 1 was incorrect. As a result, it was necessary to elect under Treas. Reg. § 1.884-1(e)(3) to reduce its U.S. liabilities by an amount sufficient to reduce its dividend equivalent amount to zero.

Taxpayer requests an extension of time under Treas Reg. § 301.9100-3 to make an election under Treas. Reg. § 1.884-1(e)(3) to reduce its U.S. liabilities for purposes of computing its branch profits tax liability for Year 1. The IRS did not discover Taxpayer's failure to timely make the election before this request for relief was filed.

Taxpayer represents that granting relief to allow it to file a late election under Treas. Reg. § 1.884-1(e)(3) will not prejudice the interest of the government. In addition, Taxpayer represents that it acted reasonably and in good faith, and that no hindsight is involved.

LAW AND ANALYSIS

Treas. Reg. § 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the standards set forth in Treas. Reg. § 301.9100-3 to make a regulatory election under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation, a revenue ruling, revenue procedure, notice, or announcement.

Treas. Reg. § 301.9100-3 provides standards for extensions of time for making regulatory elections when the deadline for making the election is other than a due date prescribed by statute.

Treas. Reg. § 301.9100-3(a) provides that requests for relief subject to this section 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 the grant of relief will not prejudice the interests of the Government. Except as otherwise provided in Treas. Reg. § 301.9100-3(b)(3)(i) through (iii), a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer requests relief before the failure to make the regulatory election is discovered by the IRS. Treas. Reg. § 301.9100-3(b)(1)(i).

In the present situation, Treas. Reg. § 1.884-1(e)(3)(iv) fixes the time to make the election. Therefore, the Commissioner has discretionary authority under Treas. Reg. § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in Treas. Reg. § 301.9100-3(a).

CONCLUSION

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time until 60 days from the date of this ruling letter to file an election under Treas. Reg. § 1.884-1(e)(3) to reduce its liabilities. A copy of this letter must be attached to any income tax return to which it is relevant.

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. Moreover, Treas. Reg. § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

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

Sincerely,

Richard F. Owens
Branch Chief, Branch 1
Associate Chief Counsel (International)

Enclosure:
Copy for 6110 Purposes

cc: