

**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-103870-24

Date:

June 11, 2024

In Re:

TY:

**Legend**

Taxpayer =

Owner =

Individual =

Tax Consultant =

Law Firm =

Month 1 =

Month 2 =

Month 3 =

Year 1 =

Date 1 =

Date 2 =

Date 3 =

Dear :

This responds to correspondences dated February 20, 2024 and May 10, 2024, submitted by Law 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 Year 1, Taxpayer's first taxable year.

## FACTS

Taxpayer is a domestic corporation wholly owned by Owner, a domestic limited liability company treated as a partnership for United States federal income tax purposes. Taxpayer was formed to serve as an interest charge domestic international sales corporation (“IC-DISC”) and has established a commission arrangement with Owner. Owner employs Individual as Chief Financial Officer.

Owner decided to establish an IC-DISC and engaged Tax Consultant and Law Firm to assist Individual in organizing and preparing all documents and filings needed to establish Taxpayer as an IC-DISC. Individual represents that he is not an expert at IC-DISC matters and that, at all relevant times, Taxpayer relied on Tax Consultant and Law Firm to organize and prepare the necessary documentation for Taxpayer to be treated as an IC-DISC. With Tax Consultant’s and Law Firm’s assistance, Taxpayer was established as an IC-DISC effective Date 1.

Individual signed Form 4876-A and sent a copy to Law Firm on Date 2. Due to an inadvertent oversight by Law Firm, the Form 4876-A was not filed within 90 days after Date 1.

During Month 3, while compiling materials for the preparation and filing of Taxpayer’s federal income tax return for Year 1, Taxpayer’s first taxable year, Individual realized that Taxpayer had received no confirmation from the Service that it had received and accepted Taxpayer’s Form 4876-A. On Date 3, Individual called the Service, which informed Taxpayer that an approved Form 4876-A was not on file. Law Firm subsequently discovered that it had failed to complete and timely file the Form 4876-A.

Law Firm promptly prepared and submitted this request for relief on behalf of Taxpayer under Treas. Reg. § 301.9100-3 for an extension of time to file Form 4876-A for Year 1, Taxpayer’s 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 DISC<sup>1</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.

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

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) gives the Commissioner discretion to 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.

Treasury Regulation § 301.9100-3(b)(1)(v) provides that a taxpayer is generally deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or advise the taxpayer to make, the election.

### **CONCLUSION**

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 90 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). 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.<sup>2</sup>

In accordance with section 996(g), Taxpayer should not accept any income tax treaty claims of reduced withholding under sections 1441 and 1442 with respect to distributions (deemed or otherwise) of accumulated DISC income.

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.

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

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Tax Consultant 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 upon examination.

Sincerely,

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Brad McCormack  
Senior Technical Reviewer, Branch 6  
Office of Associate Chief Counsel (International)

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

cc:

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<sup>2</sup> For example, no opinion is expressed regarding the consequences to any person under section 996(g).