

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-139706-04

Date:
May 02, 2005

LEGEND

Taxpayer	=	
Individual A	=	
Individual B	=	
Individual C	=	
Law Firm	=	
CPA Firm	=	
Date A	=	
Date B	=	
Tax year one	=	
Tax year two	=	
Country Y	=	

Dear :

This replies to a letter dated July 22, 2004, in which Taxpayer requests an extension of time under Treas. Reg. § 301.9100-3 to file Form 2045, Transferee Agreement, and Form 8848, Consent To Extend the Time to Assess the Branch Profits Tax Under Regulations Sections 1.884-2(a) and (c), for the tax year ended on Date A. Additional information was electronically transmitted on April 5, 2005. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is predicated upon facts and representations submitted by the 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.

Individual A is currently employed as Taxpayer's controller, and is responsible for maintaining and coordinating the company's accounting, finance, and tax reporting functions. Individual B is an attorney with Law Firm, and has extensive experience with federal tax matters. Individual C is a senior manager with CPA Firm, and has provided tax advice to Taxpayer for a number of years.

Until Date A, Taxpayer was a Country Y corporation operating primarily in the United States. Taxpayer decided to restructure and leave Country Y. Law Firm was Taxpayer's U.S. legal counsel and provided legal and tax advice concerning the domestication of Taxpayer.

A month before Date A, Individual C asked Individual A if Taxpayer would like assistance with addressing the tax issues associated with the proposed domestication transaction. Individual A indicated that Law Firm was providing legal and tax assistance with respect to the transaction. Individual C requested copies of the documents relating to the transaction, which would be available for use in preparing the federal and state income tax returns for tax year one. At this time, however, a formal engagement letter had not been entered into with CPA Firm to prepare Taxpayer's federal income tax return for tax year one.

In November of tax year one, Individual A informed Individual C that Taxpayer had effected the domestication as of Date A. However, it was not until January of tax year two that Individual A provided Individual C with the documents relating to the domestication. Individual C reviewed the documents and realized that the domestication transaction was effected as an "inbound F reorganization", and that the taxable year of Taxpayer had closed on Date A. It was further realized that the income tax return, which was due on Date B as a result of the transaction, was past due and that no branch profits tax forms had been filed.

Individual A has extensive experience with federal income tax matters but was not aware that the tax year would end on Date A, and none of Taxpayer's outside tax advisors on whom Individual A relied indicated that the tax year would end on the effective date of the domestication transaction. Individual B states that Law Firm did not advise Taxpayer that its tax year would end upon the domestication transaction as it assumed that the tax return preparer was aware of the transaction and the applicable reporting requirements.

Treas. Reg. § 301.9100 -1(b) provides that an election includes an application for relief in respect of tax, and 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. § 301.9100-1(c) provides that the Commissioner has discretion to grant a taxpayer a reasonable extension of time, under the rules set forth in § 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. § 301.9100-3(a) provides that requests for relief subject to this section will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith within the meaning of § 301.9100-3(b), subject to the conditions set forth in § 301.9100-3(b)(3), and the grant of relief will not prejudice the interests of the Government within the meaning of § 301.9100-3(c).

In the present situation, § 1.884-2(a) and (c) fix the time to file Form 2045 and Form 8848. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the standards set forth in § 301.9100-3(a).

Based on the facts and circumstances of this case, we conclude that Taxpayer satisfies the standards of § 301.9100-3. Accordingly, Taxpayer is granted an extension of time until 45 days from the date of this ruling letter to file Form 2045, Transferee Agreement, and Form 8848, Consent To Extend the Time to Assess the Branch Profits Tax Under Regulations Sections 1.884-2(a) and (c), for the tax year ended on Date A.

As provided in § 301.9100-1(a), the granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file Form 2045 and Form 8848.

No ruling has been requested, and none is expressed, as to the application of any other section of the Code or regulations to the facts presented. Specifically, no opinion is expressed as to whether the domestication transaction was effected as an “inbound F reorganization” on Date A. In addition, no opinion is expressed as to the tax consequences of filing Form 2045 and Form 8848 late under the provisions of any other section of the Code and regulations, or as to the tax treatment of any conditions existing at the time of, or resulting from, filing Form 2045 and Form 8848 late that are not specifically set forth in the above ruling. **In addition, notwithstanding that an extension is granted under § 301.9100-3 to file Form 2045 and Form 8848, penalties and interest that would otherwise be applicable, if any, continue to apply with respect to the income tax return that was due on Date B.**

A copy of this ruling letter should be associated with Taxpayer’s tax return for the tax year ended on Date A.

This ruling is directed only to Taxpayer who has requested it. I.R.C. § 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Allen Goldstein
Allen Goldstein
Reviewer

Enclosures:
Copy for § 6110 purposes