

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
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Person To Contact:
, ID No.

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Refer Reply To:
CC:INTL:B06
PLR-104420-15

Date:
May 12, 2015

TY:

Legend

Taxpayer =
Law Firm 1 =
Law Firm 2=
Parent =
Year 1 =
Date 1 =
Date 2 =
Date 3 =
Date 4 =
Date 5 =

Dear :

This responds to a letter dated January 28, 2015, submitted by Law Firm 1 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, Law Firm 1, and Law Firm 2, and accompanied by penalties 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 on examination.

FACTS

Taxpayer is a domestic corporation wholly owned by Parent. Parent is owned by seven individuals. Taxpayer operates under a commission arrangement with Parent. Law Firm 1 is a full-service law firm. Law Firm 2 is a regional law firm that specializes in business and litigation matters. In Year 1, Parent engaged Law Firm 2 to incorporate a new entity, Taxpayer, and relied on Law Firm 2 to arrange for Taxpayer to qualify as an interest charge domestic international sales corporation ("IC-DISC"), including, but not limited to, the preparation and filing of Form 4876-A. Taxpayer was incorporated on Date 1 and was intended to be treated as an IC-DISC from inception.

On Date 2, Law Firm 2 sent Form 4876-A to the Service. Law Firm 2 received from the Service a return copy of the Form 4876-A with the date stamp of receipt of Date 3.

Taxpayer timely filed its Form 1120-IC-DISC ("Interest Charge Domestic International Sales Corporation Return") for its first taxable year ended Date 4. In a letter dated Date 5, the Service stated that it was unable to process the Form 1120-IC-DISC because Taxpayer did not have an approved Form 4876-A on file with the Service and that Form 4876-A had previously been denied. Both Taxpayer and Law Firm 2 represent that they did not receive any notification that Form 4876-A had been denied prior to Date 5.

Taxpayer believes the reason for the denial of the Form 4876-A was an inadvertent omission of information on the Form 4876-A as originally filed. Taxpayer relied on Law Firm 2 to correctly prepare Form 4876-A and had no knowledge of the omission.

Law Firm 1 submitted this request for relief under Treas. Reg. § 301.9100-3 for an extension of time to file Form 4876-A effective Date 1.

LAW AND ANALYSIS

Section 992(b)(1)(A) of the Internal Revenue Code ("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.

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.

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

Temp. Treas. Reg. § 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.

Treas. Reg. § 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.

Treas. Reg. § 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.

Treas. Reg. § 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 ruling letter to its Federal income tax return for the taxable years to which this letter applies.

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.

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

Sincerely,

Angela E. Holland
Acting Assistant to Branch Chief, Branch 6
Office of Associate Chief Counsel (International)