

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-119291-24

Date:

January 22, 2025

Legend

Taxpayer =

IC-DISC 1 =

Accounting Firm =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Date 9 =

Date 10 =

Company A =

Year 1 =

Year 2 =

Dear _____ :

This responds to a letter dated October 14, 2024, supplemented with a letter dated December 12, 2024, submitted by your representatives requesting that the Internal Revenue Service ("IRS") 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.

The ruling contained in this letter is based upon information and representations submitted by Taxpayer and Accounting Firm, 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 a ruling. It is subject to verification on examination.

FACTS

Taxpayer was incorporated on Date 1 to operate as an interest charge domestic international sales corporation ("IC-DISC"), in connection with the export of machine components manufactured by Company A. Taxpayer is a domestic corporation wholly owned by Company A, an S Corporation. IC-DISC 1, to which this ruling is not directed, is another entity associated with parties related to Taxpayer. IC-DISC 1's exporting does not overlap with Taxpayer's.

On Date 2, Accounting Firm, under Taxpayer's instructions, prepared Forms 4876-A for Taxpayer and IC-DISC 1 and emailed them to Taxpayer with instructions for signature and for filing with the IRS. Accounting Firm instructed Taxpayer to file the Forms 4876-A by Date 4. On Date 3, Taxpayer emailed scans of the signed Forms 4876-A to Accounting Firm stating that the Forms 4876-A would be mailed on the same day. The Forms were signed by Taxpayer, dated Date 2. Taxpayer assumed that it had mailed the Forms 4876-A for itself and IC-DISC 1, and that it had completed all the requirements necessary to operate and to be treated as an IC-DISC for its first taxable year. Taxpayer received notice from the IRS that it did not have a Form 4876-A for Taxpayer. Taxpayer does not know if the Form 4876-A was mailed together with IC-DISC 1's Form 4876-A because Taxpayer did not save the mailing receipts and has no proof of mailing.¹

Taxpayer began operating as an IC-DISC on Date 1. Believing that it had met the requirements to operate as an IC-DISC, Taxpayer submitted an initial return, a Form 1120-IC-DISC, Interest Charge Domestic International Sales Corporation Return, signed on Date 5, with the IRS. Taxpayer assumed that it had met all the requirements to operate as an IC-DISC, but it did not qualify as an IC-DISC for federal income tax purposes because it had failed to make the election timely, i.e., Taxpayer failed to file the election within 90 days after the beginning of Year 1. Taxpayer did not realize it failed to make the election until it received a notice from the IRS issued on Date 6 (several months after the close of Year 1), indicating that the Form 1120-IC-DISC could not be processed, because the IRS did not have an approved Form 4876-A on record for Taxpayer.

On receiving the IRS notification, Taxpayer immediately took steps to remedy the situation. Taxpayer resubmitted the Forms 4876-A and 1120-IC-DISC to the IRS on

¹ Proof of *delivery*, such as a Post Office return receipt, can also be helpful in addressing a missing-submission situation.

Date 7. Taxpayer also sent faxes to the IRS Non-Master File Unit on Date 8 and Date 9. Accounting Firm was ultimately instructed by the IRS that without proof of timely filing, a private letter ruling would be required to make the IC-DISC election. Taxpayer attempted to file a Form 1120-IC-DISC for Year 2 but received a Letter 599C from the IRS dated Date 10, stating the return could not be processed. Accounting Firm then (less than two years after the close of Year 1) filed the present request on behalf of Taxpayer for a ruling to allow Taxpayer to make a late election to be treated as an IC-DISC beginning on Date 1.

LAW AND ANALYSIS

Section 992(b)(1)(A) provides that an election by a corporation to be treated as an IC-DISC 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 the election shall be made in the 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.

Treas. Reg. § 1.992-2(a)(2)(i) provides, in part, that a corporation making an election to be treated as an IC-DISC for its first taxable year must make its election within 90 days after the beginning of such taxable year. See *also* Treas. Reg. § 1.921-1T(b)(1).

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 Internal Revenue Code (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.

The election described in Treas. Reg. § 1.992-2(a)(2)(i) is a regulatory election as defined in Treas. Reg. § 301.9100-1(b). 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 for relief set forth in Treas. Reg. § 301.9100-3.

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 considered 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. For example, no opinion is expressed regarding the consequences to any person under section 996(g).

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

Taxpayer should attach a copy of this ruling letter to its Form 4876-A and Federal income tax return for the taxable years to which this letter applies. 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.

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.

Sincerely,

Anand Desai
Senior Counsel, Branch 6
(International)

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

cc: