

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:INTL:PLR-105101-02
Date:
February 25, 2003

LEGEND

Parent =

Corp A =

Corp B =

Year X =

Year Y =

Individual A =

Tax Advisor =

CPA Firm =

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Dear

This replies to a letter dated January 3, 2002 in which Parent, Corp A and Corp B (sometimes collectively referred to as the Taxpayers) request an extension of time under Treas. Reg. § 301.9100-3 to file a waiver provided under § 1.884-2T(a)(2)(i)(D) extending the period for assessment of the branch profits tax for each of Corp A and Corp B for year X until a date not earlier than the last day of year Y. 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.

Parent is the common parent of an affiliated group of corporations that included at the end of year X Corp A and Corp B. Corp A and Corp B were owned by a member of Parent's affiliated group.

Individual A is the assistant vice president of taxes at Parent. Tax Advisor is a tax partner in CPA Firm. The affidavits of Individuals A and Tax Advisor and the facts submitted show that Corp A and Corp B each believed that it did not have a branch profits tax for year X. This belief was based on the advice of Tax Advisor. Consequently, neither Corp A or Corp B availed itself of the complete termination rule of § 1.884-2T, nor filed a waiver for year X as provided under § 1.884-2T(a)(2)(i)(D).

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 the 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, and the grant of relief will not prejudice the interests of the Government.

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In the present situation, § 1.884-2T(a)(2)(i)(D) fixes the time to file the waiver. Therefore, the Commissioner has discretionary authority under § 301.9100-1(c) to grant Taxpayers an extension of time, provided that Taxpayers satisfy the standards set forth in § 301.9100-3(a).

Based solely on the facts and the representations submitted, we conclude that Taxpayers satisfy § 301.9100-3(a). Accordingly, Taxpayers are granted an extension of time until 30 days from the date of this ruling letter to file the waivers as provided under § 1.884-2T(a)(2)(i)(D) extending the period for assessment of the branch profits tax of Corp A and Corp B for year X until a date not earlier than the last day of year Y. The granting of an extension of time is not a determination that Taxpayers are otherwise eligible to file the waivers. § 301.9100-1(a).

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. In particular, no opinion is expressed as to whether Taxpayers have satisfied the requirement for complete termination under §1.884-2T(a)(2).

A copy of this ruling letter should be associated with Taxpayers' tax return for year X.

This ruling letter is directed only to the taxpayer who 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 ruling letter is being sent to your authorized representatives.

Sincerely,

/s/ Allen Goldstein

Allen Goldstein

Reviewer

Office of the Associate Chief Counsel (International)

Enclosures

Copy for 6110 purposes