

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-146992-05

Date:
January 25, 2006

LEGEND

- Taxpayer =
- DE =
- Tax Year 1 =
- Individual =
- A
- Individual =
- B
- Law Firm =
- CPA Firm =
- Country X =

Dear :

This replies to your representative’s letter dated September 9, 2005, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 to file the election and agreement described in §1.1503-2T(g)(2)(i) with respect to the dual consolidated loss incurred by DE in Tax Year 1. The information submitted is substantially as set forth below.

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

Taxpayer is the common parent of an affiliated group of corporations filing consolidated U.S. federal income tax returns. Taxpayer owns 100 percent of the outstanding stock of DE.

Under Treas. Reg. §301.7701-3(b)(2)(i)(C), DE is disregarded for U.S. federal income tax purposes as an entity separate from Taxpayer, but is subject to the Country X corporate income tax. As a result, DE is a hybrid entity separate unit as defined in §1.1503-2(c)(4). As a hybrid entity separate unit, DE is treated as a dual resident corporation under §1.1503-2(c)(2), and I.R.C. §1503(d)(2)(A) treats net operating losses generated by dual resident corporations as dual consolidated losses (“DCL”).

DE incurred a DCL in Tax Year 1. Taxpayer used that DCL to offset its consolidated income for Tax Year 1.

Taxpayer’s tax department and Individual A, a certified public accountant, prepared Taxpayer’s consolidated U.S. federal income tax return for Tax Year 1. Individual A did not advise Taxpayer that DE’s loss was a DCL, or advise Taxpayer to file the election and agreement required by Treas. Reg. §1.1503-2T(g)(2)(i) with respect to that loss.

Individual B is a lawyer with Law Firm, an international law firm, who provided advice to Taxpayer with respect to certain transactions reported in Taxpayer’s consolidated U.S. federal income tax return for Tax Year 1. However, neither Individual B nor Law Firm advised Taxpayer or Individual A that the loss of DE was a DCL. In addition, they did not advise Taxpayer to file the election and agreement required by Treas. Reg. §1.1503-2T(g)(2)(i) with its consolidated U.S. federal income tax return for Tax Year 1. After Taxpayer filed that return, members of Taxpayer’s tax department participated in a discussion with CPA Firm regarding international tax issues, including DCLs. The discussion alerted them that DE’s loss might have been a DCL, and that Taxpayer had not filed the election and agreement with its consolidated U.S. federal income tax return for Tax Year 1.

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. §301.9100-1(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. §301.9100-3(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.

In the present situation, the election and agreement described in Treas. Reg. §1.1503-2T(g)(2)(i) is a regulatory election as defined in §301.9100-1(b). Therefore, the Commissioner has discretionary authority under §301.9100-1(c) to grant Taxpayer an extension of time, provided that Taxpayer satisfies the rules set forth in §301.9100-3(a).

Based on the facts and information submitted, 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 the election and agreement described in §1.1503-2T(g)(2)(i) with respect to the DCL incurred by DE in Tax Year 1.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election and agreement described in §1.1503-2T(g)(2)(i) with respect to the DCL incurred by DE in Tax Year 1. Treas. Reg. §301.9100-1(a).

A copy of this ruling letter should be associated with the election and agreement.

This ruling 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.

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.

Pursuant to a power of attorney on file in this office, a copy of this ruling letter is being furnished to your first and second listed authorized representatives.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of Associate Chief Counsel (International)

Enclosure:

Copy for 6110 purposes