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Refer Reply To:
CC:INTL
PLR-163307-05

Date:
June 08, 2006

LEGEND

Taxpayer =
Sub =
Branch =
Country Y =
Tax Year =
One
CPA Firm =

Dear :

This replies to your representative's letter dated December 16, 2005, in which your representative requests on behalf of Taxpayer an extension of time under Treas. Reg. §301.9100-3 for Taxpayer to file the election and agreement described in §1.1503-2T(g)(2)(i) with respect to a dual consolidated loss (DCL) as defined in §1.1503-2(c)(5) incurred by Branch in Tax Year One. Additional information was submitted on May 19, 2006, and June 6, 2006. 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 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 was the parent of a consolidated group of corporations that filed a consolidated U.S. federal income tax return for Tax Year One. During that year, Taxpayer indirectly owned Sub, a domestic corporation, and Sub operated in Country Y through Branch. Sub was part of the consolidated group. In Tax Year One, Branch incurred a DCL. Taxpayer included the DCL in its tax return for Tax Year One. Taxpayer, however, did not attach to that return the election and agreement required under Treas. Reg. §1.1503-2T(g)(2)(i).

CPA Firm prepared Taxpayer's tax return for Tax Year One. During its preparation, Taxpayer's tax director learned that the previous tax director did not consider the Branch to be a branch of Sub. After reviewing the appropriate legal documents, it was confirmed that Sub did in fact own Branch's operations, and that those operations would be included in Taxpayer's tax returns, including the tax return for Tax Year One. However, the tax director was not aware of the DCL reporting requirements under Treas. Reg. §1.1503-2T(g)(2)(i). In addition, CPA Firm was not aware that Taxpayer conducted business in Country Y through a branch, or that the DCL was reflected in the computation of Taxpayer's consolidated group's taxable income.

Subsequently, a tax partner with CPA Firm discovered Branch's Tax Year One DCL while reviewing Taxpayer's tax return for Tax Year One. This discovery led to the determination that Taxpayer should have filed with that return the election and agreement required under Treas. Reg. §1.1503-2T(g)(2)(i).

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 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, 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 representations submitted, we conclude that Taxpayer satisfies the standards for relief as set forth in Treas. Reg. §301.9100-3. 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 Branch in Tax Year One.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the election and agreement. 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 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 the Associate Chief Counsel (International)

Enclosures:
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