

Internal Revenue Service

Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:INTL
PLR-113859-05
Date:
September 20, 2005

LEGEND

- Taxpayer =
- Corp F =
- Branch A =
- Branch B =
- Branch C =
- Foreign Country Q =
- Foreign Country R =
- Foreign Country S =
- Foreign Country T =
- Tax Year One =
- Tax Year Two =
- Individual A =

Dear :

This replies to your representative's letter dated February 25, 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 §1.1503-2(g)(2)(i) for Tax Year One and in § 1.1503-2T(g)(2)(i) for Tax Year Two, as set forth in the table below. The information submitted for consideration is substantially as set forth below.

	Tax Year One	Tax Year Two
Corp F	Not applicable	Y

Branch A	X	Y
Branch B	X	Y
Branch C	X	Y
LEGEND		
X = An extension of time is requested to file an election and agreement described in Treas. Reg. §1.1503-2(g)(2)(i).		
Y = An extension of time is requested to file an election and agreement described in §1.1503-2T(g)(2)(i).		

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 a U.S. corporation and the common parent of an affiliated group. During Tax Years One and Two, Taxpayer owned an interest in Corp F, a Foreign Country Q corporation. Prior to Tax Year One, an election pursuant to Treas. Reg. §301.7701-3(c) was made to treat Corp F as a disregarded entity for federal income tax purposes. Under §1.1503-2(c)(4), Corp F was considered a hybrid entity separate unit.

During Tax Years One and Two, Corp F carried on business operations through Branches A, B, and C that were located in Foreign Countries R, S, and T, respectively. Pursuant to Treas. Reg. §1.1503-2(c)(3)(i)(A), the branches are considered separate units and, therefore, dual resident corporations.

Branches A, B, and C each incurred losses during Tax Years One and Two, and Corp F incurred a loss in Tax Year Two. When Taxpayer filed its consolidated federal income tax returns for Tax Years One and Two, Individual A, Taxpayer's international tax manager, did not realize that the elections and agreements described in Treas. Reg. §1.1503-2(g)(2)(i) for Tax Year One and §1.1503-2T(g)(2)(i) for Tax Year Two were required to properly claim the losses on those returns. Subsequently, Taxpayer's outside tax advisor discovered the missed elections while reviewing Corp F's corporate structure and brought the matter to the attention of Taxpayer.

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, 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 elections and agreements described in Treas. Reg. §1.1503-2(g)(2)(i) for Tax Year One and §1.1503-2T(g)(2)(i) for Tax Year Two are regulatory elections 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 rules set forth in 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 §1.1503-2(g)(2)(i) for Tax Year One and in §1.1503-2T(g)(2)(i) for Tax Year Two, as set forth in the table above.

The granting of an extension of time is not a determination that Taxpayer is otherwise eligible to file the elections and agreements. Treas. Reg. §301.9100-1(a). A copy of this ruling letter should be associated with the elections and agreements.

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 authorized representative.

Sincerely,

Associate Chief Counsel (International)

By: /s/ Richard L. Chewning

Richard L. Chewning

Senior Counsel

Office of the Associate Chief Counsel (International)

Enclosures:

Copy for 6110 purposes