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:B03
PLR-143939-05
Date:
September 09, 2005

TY:

Legend

Corp A =

Corp B =
Entity C =
Corp D =
DE =
Country M =
Country N =
Deduction =

Tax Year X =
Tax Year Y =
Tax Act =
Part O =
Date 1 =
Date 2 =
Date 3 =
Y percent =
Z percent =

Dear :

This is in response to your letter dated August 16, 2005, in which you requested consent for Corp A to revoke, effective for Tax Year X, its election, made on behalf of Corp B on Date 1 effective for Tax Year Y, to use the safe harbor method described in

Treas. Reg. §1.901-2A(c)(3) in determining the amount of foreign income tax paid or accrued to Country M. The information submitted for consideration is substantially as set forth below.

The ruling contained in this letter is based upon information and representations submitted by Corp A and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Corp A is a domestic corporation that is the common parent of an affiliated group of corporations ("the Corp A Group") that has filed a consolidated federal income tax return on a calendar year basis since Tax Year Y.

Corp B is a wholly owned domestic subsidiary of Corp A and a member of the Corp A Group. Corp B owns 50% percent of Entity C, a Country N corporation that is a tax resident of Country M. Entity C is treated as a partnership for federal income tax purposes. Entity C owns all of Corp D, a Country N corporation. Corp D owns all of DE, a Country N corporation that is a tax resident of Country M. DE is treated as a disregarded entity for federal income tax purposes.

Corp D is dual capacity taxpayer, as defined in Treas. Reg. §1.901-2(a)(2)(ii)(A), with respect to operations in Country M. On Date 1, Corp A elected, pursuant to §1.901-2A(d)(3), to apply the safe harbor method with respect to all qualifying levies imposed by Country M, effective for Tax Year Y. Corp A's safe harbor election has not been revoked as defined in §1.901-2(a)(2)(ii)(A). The due date (including extensions) for Corp A's tax return for Tax Year X is Date 2, which is more than 30 days after August 16, 2005.

DE is subject to a levy imposed by Country M pursuant to Part O of the Tax Act. Part O was added to the Tax Act on Date 3 and is effective from the first day of Tax Year X. The amended Tax Act generally reduced the Deduction to which the DE was entitled in determining income subject to tax under Part O from Y percent to Z percent.

Treas. Reg. §1.901-2A(c)(1) permits dual capacity taxpayers in computing foreign tax credits for qualifying levies of each country to use either a "facts and circumstances" method or a "safe harbor" method to determine the amount of a levy that is not paid in exchange for a specific economic benefit.

Treas. Reg. §1.901-2A(d) describes the manner in which taxpayers may elect the safe harbor method. Treas. Reg. §1.901-2A(d)(4) provides that that election may not be revoked without the consent of the Commissioner. An application for consent must be made not later than 30 days before the due date (including extensions) for the filing of the income tax return for the first taxable year for which the revocation is sought to be effective, with certain exceptions not applicable to this situation. The Commissioner may make his consent to any revocation conditioned upon adjustments being made in

one or more taxable years so as to prevent the revocation from resulting in a distortion of the amount of any item relating to tax liability in any taxable year. The Commissioner will normally consent to a revocation under the circumstances described in §1.901-2A (d)(4)(i) through (vi).

Treas. Reg. §1.901-2A(d)(4)(iii) provides, in part, that the Commissioner will normally consent to a revocation of a safe harbor election if, "[a]fter a safe harbor election is made with respect to a foreign state …, a material change is made in the tax law of that state … or of a political subdivision of that state …; and the changed law applies to the taxable year for which the revocation is to be effective and has a material effect on the taxpayer.

Based solely on the information and representations submitted, Corp A's application for consent to revoke the safe harbor election was made not later than 30 days before Date 2, the due date (including extension) for Corp A's federal income tax return for Tax Year X. In addition, the change made on Date 3 to the Tax Act constituted a material change in law that had a material effect on Corp A. Accordingly, consent is granted to Corp A to revoke the safe harbor election effective for Tax Year X.

No opinion was requested, and no opinion is expressed, as to whether, based upon all of the relevant facts and circumstances, the amount paid pursuant to the Tax Act, or any other levies imposed by Country M, is not an amount paid in exchange for a specific economic benefit.

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.

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.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

A copy of this letter must be attached to any income tax return to which it is relevant.

Sincerely,

Richard L. Chewning
Senior Counsel, Branch 3
Office of the Associate Chief Counsel
(International)

Enclosure: Copy for 6110 purposes
cc: