

February 2009

TAX BULLETIN

IC-DISC COMPLIANCE AND PLANNING

Within 60 days of the year-end of an Interest Charge Domestic International Sales Corporation, you must reasonably estimate your intercompany pricing and make payment of intercompany balances in order to safeguard the qualified status of the IC-DISC and enable you to continue realizing tax benefits by the use of your DISC. At the end of 2008, the intercompany prices for goods and/or commissions were estimated and the estimated intercompany obligations which resulted were paid. The DISC then distributed its estimated accumulated DISC income to its shareholders as a dividend.

In most cases, this estimate was not the total profit which can be paid to your DISC for the 2008 tax period. The remaining profit due to the DISC must be reasonably estimated and paid within 60 days of year end. For an entity with a calendar year end, the due date for the payment is March 1st, 2009. The final payment of the 2008 profit to the DISC must be made by September 15, 2009. The calculation of the sales price or commission can be computed using one of the following methods:

1. 4% of the gross receipts from the sale of export property; or
2. 50% of the combined taxable income related to the export sales; or
3. Arm's length pricing method

Due to the increased depreciation allowances and other factors, for 2008 many businesses will recognize the greatest benefit by use of the 4% calculation.

Please also keep in mind that there are restrictions on what kinds of assets a DISC may hold. These assets are referred to as Qualified Export Assets (QEA). 95% or more of the total assets of the DISC must be QEA. QEA includes inventory, DISC trade receivables, working capital, producer's loans and certain other assets. For non-operating DISCs, the amount of working capital required for operations is negligible. If the balance of your DISC cash account and other non-qualified export assets at year end is greater than 5% of the total assets or non-qualified export gross receipts were used in the computation of the profit to the DISC, you may need to make a special distribution of the excess payment to the DISC by September 15, 2009. If your cash balance is equal to the initial capitalization of the DISC of \$2,500, no distribution is generally required.

In order to take full advantage of the lower qualified dividends rate of 15%, which sunsets on 12/31/09, we recommend that the DISC's 2009 profit be paid periodically throughout the year with corresponding distributions to the DISC shareholders before year end. Caution must be used to be sure distributions to DISC shareholders do not exceed the 2009 DISC profit since an over-distribution could create a non-QEA account receivable from the shareholders.

To finalize your 2008 DISC computations, please send a schedule of your qualified gross receipts to andrew.klemens@wolfco-fs.com or contact Andrew directly at (630) 545-4506 to discuss.