

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:01
PLR-138810-12
Date:
February 25, 2013

Legend

X =

Y =

Country =

Date 1 =

Dear :

This letter responds to your letter, dated August 5, 2012, submitted on behalf of Y by Y's representative, requesting that the Service grant an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to elect to be treated as a disregarded entity for federal tax purposes.

Facts

According to the information submitted, X is a domestic corporation. On Date 1, X's wholly owned foreign subsidiary, Y, formed under the laws of Country. Y represents that it always intended to elect to be treated as a disregarded entity effective Date 1. However, Y failed to timely file Form 8832, Entity Classification Election, to elect to be treated as a disregarded entity for federal tax purposes.

Law and Analysis

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes. An eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association if all members have limited liability, unless the entity makes an election to be treated otherwise. A foreign eligible entity with a single member having limited liability may elect to be treated as a disregarded entity pursuant to the rules of § 301.7701-3(c). Section 301.7701-3(c) provides that an entity classification election must be filed on Form 8832 and can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date the form is filed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

Conclusion

Based solely on the facts submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. As a result, Y is granted an extension of time of 120 days from the date of this letter to file a Form 8832 with the appropriate service center to elect to be treated as a disregarded entity for federal tax purposes effective Date 1. A copy of this letter should be attached to the Form 8832. A copy is enclosed for that purpose.

This ruling is contingent on X filing, within 120 days of the date of this letter, all required returns and amended returns for all open years consistent with the requested relief. These returns may include, but are not limited to, the following forms: (i) Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, and (ii) Form 8858, Information Return of U.S. Persons With Respect to Disregarded Entities, such that these forms reflect the consequences of the relief granted in this letter. A copy of this letter should be attached to any such returns.

Except as specifically set forth above, 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(s) 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 taxpayer representative.

Sincerely,

Joy Spies

Joy Spies

Senior Technician Reviewer, Branch 1

Office of the Associate Chief Counsel

(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes

cc: