

Internal Revenue Service

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Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-105493-19

Date:
September 04, 2019

LEGEND

X:

A:

B:

C:

D:

Country:

D1:

D2:

Year:

Dear _____ :

This letter responds to a letter dated February 15, 2019, and subsequent correspondence, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c) of the Internal Revenue Code (Code).

FACTS

The information submitted states that X was formed on D1 as a limited liability company under the laws of Country. On D1, A and B, both U.S. persons, became owners of X. On D2, A contributed his interest in X to C, a domestic entity classified as a partnership for federal tax purposes. In Year, D, a domestic corporation acquired directly and/or indirectly all of the interests in X from B and C.

X intended to elect to be classified as disregarded as an entity separate from its owner for federal tax purposes effective D1. A Form 8832, Entity Classification Election, electing to be classified as a disregarded entity effective D1 was not timely filed.

LAW

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 as provided in § 301.7701-3. Under § 301.7701-3(a), an eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or a partnership.

Section 301.7701-3(b)(2)(i)(B) provides that, unless an entity elects otherwise, a foreign eligible entity is an association if all members have limited liability.

Section 301.7701-3(b)(2)(ii) provides that a member of a foreign eligible entity has limited liability if the member has no personal liability for the debts of or claims against the entity by reason of being a member.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided in § 301.7701-3(b), or to change its classification, by filing a Form 8832 with the service center designated on the Form 8832.

Section 301.7701-3(c)(1)(iii) provides that an election made under § 301.7701-3(c)(1)(i) will be effective on the date specified by the entity on Form 8832 or on the date filed, if no date is specified on the election form. The effective date specified on Form 8832 cannot be more than seventy-five (75) days prior to the date on which the election is filed and cannot be more than twelve (12) months after the date on which the election 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

six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide the standards that the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions 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 (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

ANALYSIS AND CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of one hundred-twenty (120) days from the date of this letter to file Form 8832 with the appropriate service center and elect to be classified as disregarded as an entity separate from its owner for federal tax purposes effective D1. The election should be made in a written statement filed with the applicable service center. A copy of this letter should be attached to the Form 8832.

This ruling is contingent on X and the owners of X filing within one hundred-twenty (120) days of this letter all required 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, (ii) Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, and (iii) Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities and Foreign Branches, 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.

In addition, we express no opinion concerning the assessment of any interest, additions to tax, additional amounts, or penalties for failure to file a timely income tax or information return with respect to any taxable year that may be affected by this ruling. For example, we express no opinion as to whether a taxpayer is entitled to relief from any penalty on the basis that the taxpayer had reasonable cause for failure to file timely any income tax or information returns.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed or implied as to whether X is otherwise eligible to make the election.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer 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 ruling request, it is subject to verification on examination.

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.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____

Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter
Copy of this letter for § 6110 purposes

cc: