

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202209004**
Release Date: 3/4/2022

Third Party Communication: None
Date of Communication: Not Applicable

Index Number: 7701.00-00, 7701.02-00,
9100.00-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-112402-21

Date:
December 01, 2021

Legend

X =

Country =

Date 1 =

Date 2 =

Dear :

This letter responds to a letter dated June 8, 2021, submitted on behalf of X by its authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3 to be treated as a partnership for federal tax purposes.

Facts

According to the information submitted, X was formed under the laws of Country on Date 1. X represents that it is a foreign eligible entity and intended to be treated as a partnership for U.S. federal tax purposes as of Date 2. However, due to inadvertence, X failed to timely file Form 8832, Entity Classification Election, to elect to be treated as a partnership effective Date 2.

X represents that it and its owners consistently reported income treating X as a partnership. X also represents that granting relief will not prejudice the interests of the government and that such relief would not result in a lower tax liability in the aggregate for all years to which the request applies. Finally, X represents that it acted reasonably and in good faith.

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 as provided in § 301.7701-3.

Section 301.7701-3(b)(2)(i) provides that, unless it elects otherwise, a foreign eligible entity is (A) a partnership if it has two or more members and at least one member does not have limited liability; (B) an association if all members have limited liability; or (C) disregarded as an entity separate from its owner if it has a single owner that does not have limited liability.

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 Form 8832 with the service center designated on 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 75 days prior to the date on which the election is filed and cannot be more than 12 months after the date on which the election is filed.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3, 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 a regulatory election to include an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections. Section 301.9100-3 sets forth 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.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 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) granting relief will not prejudice the interests of the Government.

Conclusion

Based solely on the information submitted and the 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 time of 120 days from the date of this letter to file a Form 8832 with the appropriate service center and elect to be treated as a partnership for federal tax purposes, effective Date 2. A copy of this letter should be attached to the Form 8832.

This ruling is contingent on X and its owners filing within 120 days of this letter all required original or amended information and tax returns for all open years consistent with the requested relief. These returns must include, but are not limited to, Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, 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.

If applicable, this election is disregarded for purposes of determining the amounts of all section 965 elements of all United States shareholders of X if the election otherwise would change the amount of any section 965 element of any such United States shareholder. See §1.965-4(c)(2).

The ruling contained in this letter is based upon information and representations submitted by X 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.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Internal Revenue Code and the regulations thereunder.

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 a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

by:

Laura C. Fields
Chief, Branch 1
(Passthroughs & Special Industries)

Enclosure (1)

Copy for §6110 purposes

cc:

cc:

cc: