

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **202210003**  
Release Date: 3/11/2022

Third Party Communication: None  
Date of Communication: Not Applicable

Index Number: 7701.00-00, 9100.00-00,  
9100.31-00

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B01  
PLR-112166-21

Date:  
December 02, 2021

LEGEND

X =

Country =

d1 =

Dear :

This letter responds to a letter dated April 16, 2021, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting a ruling under § 301.9100-3 of the Procedure and Administration Regulations that X be granted an extension of time to file an election under § 301.7701-3 to be classified as a partnership for federal tax purposes.

FACTS

According to the submission, X is an entity formed under the laws of Country on d1. X represents that it is a foreign entity eligible to elect to be classified as a partnership effective d1. However, X failed to timely file Form 8832, Entity Classification Election, electing to classify X as a partnership effective d1.

LAW AND ANALYSIS

Section 301.7701-3(a) provides, in part, 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. 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, and 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)(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(b)(2)(ii) provides, in part, that, for purposes of § 301.7701-3(b)(2)(i), 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, in part, 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, in part, 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.

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 an election. 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 on the facts 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 Form 8832 with the appropriate service center to elect to be classified as a partnership for federal tax purposes effective d1. A copy of this letter should be attached to the Form 8832.

This ruling is contingent upon X filing, within 120 days from the date of this letter, to the extent necessary or appropriate, all required federal income tax returns and information returns (including amended returns) consistent with the requested relief granted in this letter. These returns include, but are not limited to Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, for all required taxable years consistent with X having made a timely election effective d1 to be treated as a partnership for U.S. federal income tax purposes. If this condition is not met, then this ruling is null and void. A copy of this letter should be attached to any such returns.

If applicable, the election to classify X as a partnership 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).

Except as expressly set forth above, we express or imply no opinion concerning the federal tax consequences of the facts discussed above under any other provision of the Code and the regulations thereunder. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

We express no opinion concerning the assessment of any interest, additions to tax, additional amounts, or penalties for failure to file a timely 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 a penalty on the basis that the taxpayer had reasonable cause for failure to file timely any income tax or information returns.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_/s/\_\_\_\_\_  
Caroline E. Hay  
Senior Counsel, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)  
Copy of this letter  
Copy for § 6110 purposes

cc: