

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:03
PLR-112679-22

Date:
November 21, 2022

Legend

X =

State =

Date 1 =

Date 2 =

Dear :

This letter responds to a letter dated June 29, 2022, and subsequent correspondence submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to elect to be classified as a corporation for federal tax purposes under § 301.7701-3.

FACTS

According to the information submitted, X was formed as a limited liability company under the laws of State. Prior to Date 1, X was classified as a partnership for federal tax purposes. X represents that it intended to elect to change its classification from a partnership to an association taxable as a corporation for federal tax purposes effective Date 1. On or about Date 2, X filed a Form 8832, Entity Classification Election, electing to be classified as an association taxable as a corporation effective Date 1, but the election did not contain all of the required signatures.

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 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. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(1) provides that, except for certain existing entities described in § 301.7701-3(b)(3), unless an eligible entity elects otherwise, a domestic eligible entity is (i) a partnership if it has two or more members; or (ii) disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided under § 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 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 such date is specified on the election form. The 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 301.7701-3(c)(2)(i) provides, in general, that an election made under § 301.7701-3(c)(1)(i) must be signed by (A) each member of the electing entity who is an owner at the time the election is filed; or (B) any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organizational documents) to make the election and who represents to having such authorization under penalties of perjury.

Section 301.7701-3(c)(2)(ii) provides that, for purposes of § 301.7701-3(c)(2)(i), if an election under § 301.7701-3(c)(1)(i) is to be effective for any period prior to the time that it is filed, each person who was an owner between the date the election is to be effective and the date the election is filed, and who is not an owner at the time the election is filed, must also sign the election.

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 (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 an 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 (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.

CONCLUSION

Based solely 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, we grant X 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 classified as an association taxable as a corporation for federal tax purposes effective Date 1. A copy of this letter should be attached to the Form 8832.

Except as specifically set forth above, we express or imply no opinion concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. 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.

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.

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

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure:

Copy of this letter for § 6110 purposes

cc: