

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-101858-23

Date:
July 25, 2023

LEGEND

X =
Date 1 =
Date 2 =
Date 3 =
State =

Dear :

This letter responds to a letter dated December 14, 2022, submitted on behalf of X by X's authorized representative, requesting a ruling under § 301.9100-3 and § 301.7701-3(c)(1)(iv) of the Procedure and Administration Regulations. Specifically, your letter requests the Service's consent to change X's entity classification from an association taxable as a corporation to a disregarded entity for federal tax purposes effective Date 3.

FACTS

The information submitted states that X was formed under the laws of State as a limited liability company on Date 1. X subsequently elected to be an S corporation effective Date 2. Under § 301.7701-3(c)(i)(v)(C), X is treated as having made an election to be classified as an association taxable as a corporation for federal tax purposes effective Date 2. On Date 3, a new owner acquired more than fifty percent of X, satisfying § 301.7701-3(c)(1)(iv). X requests to change its classification from an association taxable as a corporation to a disregarded entity for federal tax purposes effective Date 3.

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. 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)(1) provides that, unless the 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 that, except as provided in § 301.7701-3(c)(1)(iv) and (v), 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, Entity Classification Election, 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 the 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 301.7701-3(c)(1)(iv) provides that, if an eligible entity makes an election under § 301.7701-3(c)(1)(i) to change its classification, the entity cannot change its classification by election again during the sixty months succeeding the effective date of the election. However, the Commissioner may permit the entity to change its classification by election within the sixty months if more than fifty percent of the ownership interests in the entity as of the effective date of the subsequent election are owned by persons that did not own any interests in the entity on the filing date or on the effective date of the entity's prior election. An election by a newly formed eligible entity that is effective on the date of formation is not considered a change for purposes of § 301.7701-3(c)(1)(iv).

Section 301.7701-3(c)(1)(v)(C) provides that an eligible entity that timely elects to be an S corporation under § 1362(a)(1) of the Internal Revenue Code (Code) is treated as having made an election under § 301.7701-3 to be classified as an association, provided that (as of the effective date of the election under § 1362(a)(1)) the entity meets all other requirements to qualify as a small business corporation under § 1361(b). Subject to § 301.7701-3(c)(1)(iv), the deemed election to be classified as an association will apply as of the effective date of the S corporation election and will remain in effect until the entity makes a valid election, under § 301.7701-3(c)(1)(i), to be classified as other than an association.

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 Internal Revenue Code (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.

Section 301.9100-3(a) provides that 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 information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Further, we consent to X changing its entity classification to a disregarded entity for federal tax less than 60 months after its previous entity classification election under § 301.7701-3(c)(1)(iv). Accordingly, 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 under § 301.7701-3 to be disregarded as an entity separate from its owner effective Date 3. A copy of this letter should be attached to the Form 8832.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion regarding whether X is otherwise eligible to make the election.

The rulings contained in this letter are 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 request for rulings, 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 X's authorized representatives.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____/S/
Caroline E. Hay
Senior Technician Reviewer, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure
Copy for § 6110 purposes

CC: