

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-106938-23

Date:
September 27, 2023

Legend

X =

State =

Date1 =

Date2 =

Date3 =

Dear :

This letter responds to a letter dated February 6, 2023, and supplemental information submitted on behalf of X, requesting a ruling under § 301.7701-3(c)(1)(iv) and an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to file an election under § 301.7701-3 to be classified as a disregarded entity for federal tax purposes.

FACTS

The information submitted states that X was formed under the laws of State as a limited liability company on Date1. X subsequently elected to be an S corporation effective Date2. Under § 301.7701-3(c)(1)(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

Date2. On Date3, a new owner acquired all outstanding units of X, satisfying § 301.7701-3(c)(1)(iv).

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. 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, 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.

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 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 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue 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 the 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 a 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 consent to X changing its entity classification to a disregarded entity for federal tax purposes effective Date3 under § 301.7701-3(c)(1)(iv). We further 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 to elect to be treated as a disregarded entity effective Date3. A copy of this letter should be attached to the Form 8832.

This ruling is contingent on X and its owner filing, within 120 days from the date of this letter, all required federal income tax returns and information returns (including amended returns) consistent with the relief granted in this letter.

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 Code. 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 any penalty on the basis

that the taxpayer had reasonable cause for failure to file timely any income tax or information returns.

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, we are sending copies of this letter to X's authorized representatives.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

Joyce C. Spies
Senior Technician Reviewer, Branch 1
(Passthroughs & Special Industries)

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

cc: