

Internal Revenue Service

Department of the Treasury
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PLR-111908-23
PLR-111909-23
PLR-111910-23
PLR-111911-23
PLR-111912-23

Date:
December 06, 2023

LEGEND

X =

Y =

Entity 1 =

Entity 2 =

Entity 3 =

Entity 4 =

Entity 5 =

State =

Date 1 =

Date 2 =

Date 3 =

Dear :

This responds to a letter dated June 1, 2023, submitted on behalf of Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 (collectively, Taxpayers), by the authorized representatives of the Taxpayers, 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 the Taxpayers' classifications from associations taxable as corporations to disregarded entities for Federal tax purposes, effective Date 3.

FACTS

The information submitted states that X is a domestic corporation formed under the laws of State. Y is a domestic corporation formed under the laws of State, and wholly owns, directly or indirectly, Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5. Each of Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 are domestic eligible entities under § 301.7701-3 and each filed a Form 8832, Entity Classification Election, electing to be classified as an association taxable as a corporation, effective Date 1. Each entity's respective entity classification elections were not their initial classification elections effective as of the date of their respective formations.

On Date 2, X acquired all the issued and outstanding stock of Y. Taxpayers represent that X and the seller of Y jointly filed § 338(h)(10) elections with respect to the acquisition of Y, Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5.

Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 each desired to file Form 8832, Entity Classification Election, to elect to be classified as an entity disregarded as separate from its owner, effective Date 3 (the day after Date 2). However, since Date 3 is within sixty months of Date 1, Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 could not timely file the election to be effective Date 3 without the permission of the Commissioner. Accordingly, Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 prepared this request to change their classification from associations taxable as corporations to disregarded entities for Federal tax purposes and for an extension of time under § 301.9100-3 to file the entity classification elections under § 301.7701-3, effective Date 3.

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. Elections are

necessary only when an eligible entity chooses to be classified initially as other than 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.

An eligible entity with at least two owners 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(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 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 such date 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. If a purchasing corporation makes an election under § 338 regarding an acquired subsidiary, an entity classification election for the acquired subsidiary can be effective no earlier than the day after the acquisition date (within the meaning of § 338(h)(2)).

Section 301.7701-3(c)(1)(iv) provides that if an eligible entity makes an election 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 this paragraph.

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 not 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) provides that the term "regulatory election" includes an election whose due date is prescribed by a regulation published in the Federal Register.

Section 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 standards the Commissioner will use to determine whether to grant an automatic extension of time for making certain elections.

Section 301.9100-3 provides the guidelines for granting extensions of time for making 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 the taxpayer acted reasonably and in good faith, and 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. Further, we consent to Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 changing their entity classification elections less than 60 months after their previous entity classification elections under § 301.7701-3(c)(1)(iv). Accordingly, Entity 1, Entity 2, Entity 3, Entity 4, and Entity 5 are each granted an extension of time of 120 days from the date of this letter to make an election to be treated as an entity disregarded as separate from its owner for Federal tax purposes effective Date 3. Each entity must make the election by filing a properly executed Form 8832, Entity Classification Election, with the appropriate service center. 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 Federal tax consequences of the facts or transactions described above under any other provision of the Code and 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.

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 a power of attorney on file with this office, we are sending a copy of this letter ruling to your authorized representatives.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

/s/

By:

Jennifer N. Keeney
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure

Copy for § 6110 purposes

cc: