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PLR-118228-23
PLR-118229-23
PLR-118230-23
PLR-118231-23
PLR-118232-23
PLR-118233-23
PLR-118234-23

Date:
March 01, 2024

LEGEND

I =

U =

V =

W =

X =

Y =

Z =

Country 1 =

Country 2 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Date 5 =

Date 6 =

Date 7 =

Date 8 =

Date 9 =

Date 10 =

Dear _____ :

This letter is in response to your letter dated September 5, 2023, and subsequent correspondence, submitted on behalf of T, U, V, W, X, Y, and Z (Entities) by their authorized representatives, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for each of the Entities to file an election under § 301.7701-3 to be classified as a partnership for federal tax purposes.

FACTS

The information submitted states that T, U, V, W, X, and Y were formed under the laws of County 1 on Date 1, Date 2, Date 3, Date 8, Date 5, and Date 6, respectively, and became relevant for United States tax purposes on Date 4, Date 4, Date 7, Date 9, Date 5, and Date 7, respectively. Z was formed under the laws of Country 2 on Date 10. Each of T, U, V, W, X, Y, and Z represents that it is a foreign entity eligible to elect to be classified as a partnership for federal tax purposes effective Date 4, Date 4, Date 7, Date 9, Date 5, Date 7, and Date 10, respectively (Intended Effective Date). However, each of the Entities failed to file a Form 8832, Entity Classification Election, electing to be classified as a partnership for federal tax purposes effective on its Intended Effective Date.

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, except as provided in § 301.7701-3(b)(3), unless the entity 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 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 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(d)(1)(i) provides that a foreign eligible entity's classification is relevant when its classification affects the liability of any person for federal tax or information purposes.

Section 301.7701-3(d)(2) provides that if the classification of a foreign eligible entity has never been relevant (as defined in § 301.7701-3(d)(1)), then the entity's classification will initially be determined pursuant to the default classification provisions of § 301.7701-3(b)(2) when the classification of the entity first becomes relevant (as defined in § 301.7701-3(d)(1)(i)).

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 (the 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 301.9100-2 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.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the 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 representations made, we conclude that each of the Entities has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, we grant each of the Entities 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 a partnership for federal tax purposes effective on its Intended Effective Date. A copy of this letter should be attached to each Form 8832.

If applicable, the Entities' elections to be classified as partnerships are disregarded for purposes of determining the amounts of all § 965 elements of all United States shareholders of the Entities if the elections otherwise would change the amount of any § 965 element of any such United States shareholder. See § 1.965-4(c)(2) of the Income Tax Regulations.

Except as expressly provided herein, we express or imply no opinion concerning the federal 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 requested ruling, 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 to the Entities' authorized representatives.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

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

PLR-118228-23 through
PLR-118234-23

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Enclosure:

Copy of this letter for § 6110 purposes

cc: