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Person To Contact:

Telephone Number:

Refer Reply To:
CC:PSI:01
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Date:
April 05, 2024

LEGEND

X =

State =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear

This letter responds to a letter dated September 15, 2023, and subsequent correspondence, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3 to be classified as disregarded entity for federal tax purposes.

FACTS

According to the information submitted, X, organized as a limited liability company under the laws of State on Date 1, made an election to be treated as an S corporation effective on Date 1. 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 Date 1. In two transactions on Date 2 and Date 3, a single corporation acquired all outstanding units of X.

X represents that it intended to elect to change its classification to a disregarded entity effective Date 4. However, X failed to timely file Form 8832, Entity Classification Election, electing to be classified as a disregarded entity effective Date 4.

X represents that granting relief would not result in a lower tax liability in the aggregate for all taxable years affected by the election than there would have been if the election had been timely made.

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)(1) provides that except as provided in § 301.7701-3(b)(3), 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, 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. If an election specifies an effective date more than 75 days prior to the date on which the election is filed, it will be effective 75 days prior to the date it was filed.

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) 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 301.7701-3(g)(1)(iii) provides that if an eligible entity classified as an association elects under § 301.7701-3(c)(1)(i) to be disregarded as an entity separate from its owner, the following is deemed to occur: the association distributes all of its assets and liabilities to its single owner in liquidation of the association.

Section 301.7701-3(g)(3)(i) provides that an election under § 301.7701-3(c)(1)(i) that changes the classification of an eligible entity for federal tax purposes is treated as occurring at the start of the day for which the election is effective. Any transactions that are deemed to occur under § 301.7701-3(g) as a result of a change in classification are treated as occurring immediately before the close of the day before the election is effective.

Section 301.9100-1(c) provides that the Commissioner in exercising the Commissioner's discretion 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.

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 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 information submitted and the representations made, we 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 Date 4. 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 of the date of this letter, to the extent necessary or appropriate, all required federal income tax returns and information returns (including amended returns) consistent with the requested relief granted in this letter. A copy of this letter should be attached to any such returns.

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 ruling contained in this letter is based on 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.

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)

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

Enclosure
Copy of letter for § 6110 purposes

cc: