

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

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CC:PSI:01

PLR-106228-15

Date:

June 17, 2015

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Dear :

This letter responds to a letter dated January 30, 2015, 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(c) to be treated as a partnership for federal tax purposes.

FACTS

The information submitted states that X was formed under the laws of Country on Date 1. Y and Z own all of the outstanding interests in X. X represents that, as of Date 1, it was a foreign entity eligible to elect to be a partnership for U.S. federal tax purposes and at all times Y and Z intended X to be treated as a partnership. X represents that it was not advised of the need to make an election for U.S. federal income tax purposes to be treated as a partnership. As a result, X failed to timely file a Form 8832, *Entity Classification Election*, electing to be treated as a partnership for U.S. federal tax purposes effective Date 1.

X represents that Y and Z consistently filed U.S. tax returns treating X as a partnership. X also represents that granting relief will not prejudice the interests of the government and that hindsight is not involved in seeking relief to file a late election. X further represents that such relief would not result in a lower tax liability in the aggregate for all years to which the request applies, as the owners of X properly reported the net income of X on their respective returns. Finally X represents that it acted reasonably and in good faith.

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. An eligible entity with at least two members can elect to be classified as either an association 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) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association if all members have limited liability, unless the entity makes an election to be treated otherwise. A foreign eligible entity with a single member having limited liability may elect to be treated as a disregarded entity pursuant to the rules of § 301.7701-3(c).

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b)(2) by filing Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and no more than 12 months after the date the election is filed.

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 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) provides that the term “regulatory election” includes 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 extension 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 the 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 to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonable and in good faith, and (2) granting relief will not prejudice the interests of the government.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. Accordingly, X is granted an extension of time of one hundred twenty (120) days from the date of this letter to file Form 8832, with the appropriate service center to elect to be treated as a partnership for federal tax purposes effective Date 1. A copy of this letter is attached for that purpose.

This ruling is contingent on the owners of X filing within 120 days of this letter all required returns for all open years consistent with the requested relief. To the extent appropriate these returns must include, but are not limited to Form 8865, Information Return of U.S. Persons With Respect to Certain Foreign Partnerships, such that the forms and returns reflect the consequences of the relief granted in this letter. A copy of this letter should be attached to any such returns.

Except as expressly set forth herein, no opinion is expressed or implied concerning the federal tax consequences any aspect of any transaction or item discussed or referenced in this letter. 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. Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representatives.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: David R. Haglund
David R. Haglund
Branch Chief, Branch 1
(Passthroughs & Special Industries)

Enclosures (2)
Copy of Letter

PLR-106228-15

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Copy for 6110 purposes