

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B02
PLR-121592-08

Date:
October 28, 2008

Legend

X =

Y =

Z =

A =

B =

Country =

D1 =

D2 =

D3 =

Dear :

This is in response to a letter dated April 29, 2008, and subsequent correspondence, submitted on behalf of X by its authorized representative, requesting a ruling under §§ 301.7701-3(c)(1)(iv) and 301.9100-3 of the Procedure and Administration Regulations. Specifically, X has requested the Service's consent to change its classification from a disregarded entity to an association taxable as a corporation, effective D3.

FACTS

X, a Country eligible entity formed on D1, elected to be classified as a disregarded entity for federal income tax purposes, effective D2. At the time of the election, X was wholly owned by Y, which in turn was wholly owned by Z. Y and Z were both foreign corporations. On D3, A purchased all of the outstanding shares of Z through its wholly owned subsidiary, B. Upon A's purchase of Z and all of its underlying entities, it was intended that X would be treated as an association taxable as a corporation effective D3. Neither A nor B had any direct, indirect, or constructive ownership interests in X, Y, or Z prior to the purchase. Because an entity classification was made within 60 months prior to D3, X requests the Service's consent under § 301.7701-3(c)(1)(iv) to change its classification. Due to inadvertence, X failed to file a timely Form 8832, Entity Classification Election, electing to treat X as an association taxable as a corporation effective D3.

LAW AND ANALYSIS

Section 301.7701-2(a) generally provides that a business entity is any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Internal Revenue Code.

Section 301.7701-3(a) provides that so long as a business entity is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7) or (8) (an eligible entity), it may elect its classification for federal tax purposes.

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 taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise. If the foreign eligible entity has only one owner, it may elect to be treated as a disregarded entity pursuant to the rules in § 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) by filing a 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 on the election form. The 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, in part, 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 the effective date of the entity's prior election.

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 six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term regulatory election as including an election with a deadline prescribed by a regulation 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 an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that request for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of sixty (60) days from the date of this letter to elect to be classified as an association taxable as a corporation for federal tax purposes, effective D3. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, a copy of this letter will be sent to X's authorized representatives.

Sincerely,

Curt G. Wilson
Deputy Associate Chief Counsel
(Passthroughs and Special Industries)

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