

## Internal Revenue Service

Number: **201607013**

Release Date: 2/12/2016

Index Number: 7701.00-00, 9100.31-00

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:B01

PLR-117087-15

Date:

October 28, 2015

## LEGEND

X =

Country =

D1 =

D2 =

Dear :

This responds to a letter dated May 11, 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 disregarded entity for federal tax purposes.

## FACTS

According to the information submitted, X was organized under the laws of Country on D1. X represents that it is a foreign entity eligible to elect to be classified as a disregarded entity effective D2. X failed to timely file a properly executed Form 8832,

Entity Classification Election, to be treated as a disregarded entity for federal tax purposes effective D2.

X represents that it acted reasonably and in good faith. X also represents that granting the relief requested will not prejudice the interests of the government.

## 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. 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) provides that an entity classification election must be filed on Form 8832 and can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date the form is filed.

Section 301.7701-3(c)(2)(i) provides that an entity classification election must be signed by (A) each member of the electing entity who is an owner at the time the election is filed; or (B) any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organizational documents) to make the election and who represents to having such authorization under penalties of perjury. Section 301.7701-3(c)(2)(ii) provides that, if an entity classification election is to be effective for any period prior to the time that it is filed, each person who was an owner between the date the election is to be effective and the date the election is filed, and who is not an owner at the time the election is filed, must also sign the election. Section 301.7701-3(c)(2)(iii) generally provides that if an entity classification election is made to change the classification of an entity, each person who was an owner on the day before the effective date of the election, and who is not an owner at the time the election is filed, must also sign the election.

Under § 301.9100-1(c), 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 Internal Revenue Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "regulatory election" as including 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 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. Requests 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 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 make an election to be treated as a disregarded entity for federal tax purposes effective D2. X should make the election by filing a properly executed Form 8832 with the appropriate service center. A copy of this letter should be attached to the form.

This ruling is contingent on the owner of X filing within 120 days of this letter all required returns, including amended returns, for all open years consistent with the requested relief. These returns may include, but are not limited to, the following forms: (i) Forms 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, (ii) Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, and (iii) Forms 8858, Information Return of U.S. Persons With Respect to Disregarded Entities, such that these forms reflect the consequences of the relief granted in this letter. A copy of this letter should be attached to any such returns.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any other provision of the Internal Revenue Code.

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, a copy of this letter is being sent to X's authorized representatives.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By: Laura C. Fields  
Laura C. Fields  
Senior Technician Reviewer, Branch 1  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter  
Copy of this letter for section 6110 purposes