

Internal Revenue Service

Number: **202020013**

Release Date: 5/15/2020

Index Numbers: 7701.00-00, 9100.00-00,
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:B03

PLR-119899-19

Date:

February 13, 2020

LEGEND

X =

Country =

D1 =

D2 =

Dear :

This letter responds to a letter dated August 1, 2019, and subsequent correspondence, submitted on behalf of X by its authorized representative, 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 a disregarded entity for Federal tax purposes.

FACTS

The information submitted discloses that X was formed on D1 under the laws of Country. X represents that it is a foreign entity eligible to elect to be classified as a disregarded entity for federal tax purposes as of D2. However, X failed to timely file

Form 8832, Entity Classification Election, to be classified as a disregarded entity for federal tax purposes effective D2.

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, except as provided in § 301.7701-3(c)(1)(iv) and (v), 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, in part, 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(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.

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 (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 an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions 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 under § 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 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 facts and representations submitted, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. Consequently, X is granted an extension of time of one hundred twenty (120) days from the date of this letter to elect under § 301.7701-3 to be classified as a disregarded entity effective D2. X must file Form 8832 within the extension period with the appropriate service center, with a copy of this letter attached.

This ruling is contingent on X and its owner, A, filing within 120 days of the date of this letter all required federal income tax and information returns (including amended returns) for all open years consistent with the requested relief (including the application of § 301.7701-3(g)(1)(iii)). These returns must include, but are not limited to, Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities, such that this form reflects the consequences of the relief granted in this letter. A copy of this letter should be attached to any such returns.

If applicable, this disregarded entity election is disregarded for purposes of determining the amounts of all section 965 elements of the United States shareholder of X if the election otherwise would change the amount of any section 965 element of any such United States shareholder. See §1.965-4(c)(2).

We express no opinion concerning the assessment of any interest, additions to tax, additional amounts, or penalties for failure to file a timely income 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.

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of the facts of this case 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.

This ruling is directed only to the taxpayer requesting it. According to § 6110(k)(3) of the Code, this ruling may not be used or cited as precedent.

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 ruling request, it is subject to verification on examination.

Under a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Stacy L. Short
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures: Copy of this letter
Copy of this letter for § 6110 purposes

cc: