

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201728008**

Release Date: 7/14/2017

Index Number: 7701.00-00, 9100.31-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:01

PLR-126006-16

Date:

February 14, 2017

Legend

X =

Country =

Date 1 =

Dear :

This letter responds to a letter dated August 19, 2016, 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 formed under the laws of Country on Date 1 and classified, for U.S. federal tax purposes, as an association under the default rule of § 301.7701-3(b). X represents that, as of Date 1, it was a foreign entity eligible to elect to be classified as a disregarded entity for U.S. federal income tax purposes. X represents that it intended to be a disregarded entity for federal income tax purposes effective Date 1. X represents that it relied upon a qualified tax professional to file the election effective Date 1; however, the tax professional failed to file the election timely.

X represents that its owner consistently reported income treating X as a disregarded entity. 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. Finally X represents that it acted reasonably and in good faith.

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) provides default classification for an eligible entity that does not make an election. Section 301.7701-3(b)(2)(i) provides that, unless the entity elects otherwise, a foreign eligible entity is (A) a partnership if it has two 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(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.

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.

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 the rules for governing automatic extensions 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. Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

CONCLUSION

Based solely on the information submitted and the 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, effective Date 1, with the appropriate service center. A copy of this letter should be attached to each Form 8832.

This ruling is contingent on the owner 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 8858, *Information Return of U.S. Persons With Respect to Disregarded Entities*, 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 of the facts described above under any other provision of the 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. 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: Laura C. Fields
Laura C. Fields
Senior Technician Reviewer, Branch 1
(Passthroughs & Special Industries)

Enclosures (2)
Copy of Letter
Copy for 6110 Purposes