

Internal Revenue Service

Number: **201928011**

Release Date: 7/12/2019

Index Number: 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

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CC:PSI:B01

PLR-128138-18

Date:

March 28, 2019

Legend

X =

Y =

Z =

A =

B =

C =

P1 =

P2 =

P3 =

S1

S2 =

D1 =

D2 =

D3 =

D4 =

D5 =

D6 =

D7 =

Year1 =

Year2 =

Year3 =

Year4 =

State1 =

State2 =

Dear :

This is in response to a letter dated September 14, 2018, and supplemental information, filed 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 an association taxable as a corporation for federal tax purposes.

FACTS

According to the information submitted, Y was formed under the laws of State1 on D1 under former name A. In Year1, A changed its name to B. In Year2, P1 acquired B and Z. On D2, B changed its name to C. On D3, C changed its name to Y and at the same time Z changed its name to S1 and P1 merged into P2, a newly formed entity, with P2 surviving the merger.

On D4, S2 was formed under the laws of State2. On D5, Y was merged into S2 with S2 surviving the merger in a transaction under § 368(a)(1). Immediately following the merger, S2 was converted into a single member LLC under the laws of State2 and changed its name to X retaining the EIN of Y. On D5, immediately following the conversion, P2 transferred 100% of X to S1. Immediately thereafter, S1 transferred 100% of X to P3, a newly formed entity. After the D5 transactions, P2 owned 100% of S1 and P3 owned 100% of X. On D6, P3 was liquidated into S1 in a transaction under § 332. After the liquidation, P2 owned 100% of S1 and S1 owned 100% of X. X represents that although it should have been treated as a disregarded entity for tax purposes, X was included on P2's consolidated returns for Year3 and thereafter.

Following the liquidation on D6, X intended to be treated as an association taxable as a corporation for federal tax purposes effective D7. However, X inadvertently failed to timely file Form 8832, Entity Classification Election, to be treated as an association taxable as a corporation for federal tax purposes. X represents that it has filed its federal income tax returns consistent with the relief requested for Year4 and thereafter; that no hindsight is involved, and that the interests of the government will not be prejudiced if relief is granted.

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 (and thus a corporation under § 301.7701-2(b)(2)) or a partnership.

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 Form 8832 with the service center designated on the form. Section 301.7701-3(c)(1)(iii) provides 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 can not be more than 75 days prior to the date on which the election is filed and can not be more than 12 months after the date on which the election is filed.

Section 301.7701-3(c)(2)(i) provides that such an election must be signed by either (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 organization documents) to make the election and who represents to having such authorization under penalties of perjury. Section 301.7701-3(c)(2)(iii) provides that if an election is to have a retroactive effective date, 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 filled, 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.

Sections 301.9100-1 through 301.9100-3 provide the standards that the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-1(a).

Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions of time for 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 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 § 301.9100-3 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 an association taxable as a corporation for federal tax purposes effective D7. X must 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.

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 requesting it. Section 6110(k)(3) 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 your authorized representatives.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs & Special Industries)

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

Enclosures (2)
Copy of this letter
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