

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-128362-10

Date:

7/27/10

Legend

X:

Country:

Date 1:

Date 2 :

Dear :

This responds to a letter dated June 28, 2010 and subsequent correspondence submitted on behalf of X, requesting that the Service grant X an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to elect to be treated as a partnership under § 301.7701-3(c).

The information submitted states that X was formed on Date 1 under the laws of Country. Prior to Date 2, X did not engage in a US trade or business or have any US income. X represents that X is a foreign entity eligible to elect to be treated as a partnership for U.S. income tax purposes. However, X inadvertently failed to timely file a Form 8832, Entity Classification Election, electing to treat X as a partnership effective Date 2.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign entity for federal income 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 two owners, it may elect to be treated as a partnership pursuant to the rules in § 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 seventy-five (75) days prior to the date the form is filed or up to twelve (12) months after the date on which the form is filed.

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 6 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 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 the election. Section 301.9100-2 provides the rules 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 regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief 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.

Based solely on the information 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 file a Form 8832 with the appropriate service center to elect to be treated as a partnership for U.S. income tax purposes effective Date 2. A copy of this letter should be attached to the Form 8832. A copy is enclosed for that purpose.

This ruling is contingent on X filing within 120 days of this letter all required returns and amended income tax returns consistent with the requested relief being effective Date 2. To the extent appropriate these returns must include, but are not limited to Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, such that these forms reflect the consequences of the relief granted in this letter.

Except as specifically set forth above, no opinion is expressed 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) 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: _____
Charlotte Chyr
Senior Technician Reviewer
Branch 2
Office of Chief Counsel

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