

Internal Revenue Service

Department of the Treasury
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Person To Contact:

, ID No.

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Refer Reply To:

CC:PSI:B03 – PLR-124533-18

Date:

March 07, 2019

LEGEND

X =

Y =

Z =

Country =

d1 =

d2 =

Dear :

This letter responds to a letter dated August 8, 2018 submitted on behalf of X, requesting a ruling under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations that X be granted an extension of time to file an election to be classified as a partnership under § 301.7701-3.

FACTS

The information submitted states that X was formed on d1 as a limited liability company under the laws of Country. On d2, Y and Z, both U.S. persons, became owners of X. X intended to elect to be classified as a partnership for federal tax

purposes effective d2. However, a Form 8832, Entity Classification Election, electing to be classified as a partnership effective d2 was not timely filed.

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 as provided in § 301.7701-3. Under § 301.7701-3(a), 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(b)(2)(i)(B) provides that, unless an entity elects otherwise, a foreign eligible entity is an association if all members have limited liability.

Section 301.7701-3(b)(2)(ii) provides that 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 that an eligible entity may elect to be classified other than as provided in § 301.7701-3(b), or to change its classification, by filing a Form 8832 with the service center designated on the Form 8832.

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 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 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3, 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) defines a regulatory election to include an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-2 provides the rules governing 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. Under § 301.9100-3, a request for relief will

be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based 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 file Form 8832 with the appropriate service center and elect to be classified as a partnership for federal tax purposes effective d2. A copy of this letter should be attached to the Form 8832.

This ruling is contingent on X and the owners of X filing within 120 days of this letter all required returns for all open years consistent with the requested relief. These returns may include, but are not limited to, the following forms: (i) Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, (ii) Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, and (iii) Form 8858, Information Return of U.S. Persons With Respect to Foreign Disregarded Entities and Foreign Branches, 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.

In addition, 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 as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed or implied as to whether X is otherwise eligible to make the election.

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.

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In accordance with 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: _____
Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: