

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:B01

PLR-135879-18

Date:

May 29, 2019

LEGEND

X =

Date =

Country =

Dear :

This responds to a letter dated December 6, 2018, and subsequent information, provided 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 file an election to be treated as a disregarded entity.

FACTS

The information submitted states that X was formed as an entity under the laws of Country. X represents that as a foreign eligible entity, X was eligible to elect to be treated as a disregarded entity effective Date. However, X inadvertently failed to timely file Form 8832, Entity Classification Election, electing to treat X as a disregarded entity effective Date.

LAW AND ANALYSIS

Section 301.7701-3(a) of the income tax regulations provides, in relevant 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 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) provides, in part, that unless a foreign eligible entity elects otherwise, it will be classified as a “corporation” for U.S. income tax purposes if it offers its members limited liability. Section 301.7701-3(c)(1)(i) provides, in part, that an entity may elect to be classified other than as provided under section 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the IRS Service Center designated on the form.

Section 301.7701-3(c)(1)(iii) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association if all members have limited liability, unless the entity makes an election to be treated otherwise. A foreign eligible entity with two or more members having limited liability may elect to be treated as a partnership pursuant to the rules of § 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 75 days prior to the date the form is filed or up to 12 months after the date the form 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 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 a disregarded entity for federal tax purposes effective Date. X shall 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.

This ruling is contingent on the owner of X filing within 120 days of this letter all required returns and amended income tax returns consistent with the requested relief being effective Date. To the extent appropriate, these returns must include, but are not limited to, Forms 8858, Information Return of U.S. Persons with Respect to Foreign Disregarded Entities, such that these forms reflect the consequences of the relief granted in this letter.

If applicable, this election is disregarded for purposes of determining the amounts of all section 965 elements of all United States shareholders 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).

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.

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.

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 Haglund
David Haglund, Branch Chief
Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
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