

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200843005**
Release Date: 10/24/2008

Third Party Communication: None
Date of Communication: Not Applicable
Person To Contact:

Index Number: 7701.00-00, 9100.00-00

, ID No.
Telephone Number:

Refer Reply To:
CC:PSI:B1
PLR-104012-08
Date:
July 23, 2008

Legend

X =

Y =

Date 1 =

Country =

Dear :

This letter responds to a request, dated January 23, 2008, 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 to be treated as a disregarded entity for federal tax purposes under § 301.7701-3(c).

FACTS

Based on the information submitted and representations made within, the relevant facts are as follows. X is an entity organized under the laws of Country. Y is the 100 percent owner of X. On Date 1, the legal form of X was converted, under the laws of Country, from a Sociedad Anonima to a Limitada. X represents that as of Date 1, it is a foreign entity eligible to elect to be treated as a disregarded entity. X intended to be treated as a disregarded entity for federal tax purposes, effective Date 1. However, X did not timely file a Form 8832, Entity Classification Election.

X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that it is not using hindsight in making the election.

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. 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, 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)(2)(i) provides that, except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a foreign eligible entity is (A) a partnership if it has two or more 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), or to change its classification, by filing Form 8832 with the service center designated on 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 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 301.9100-1(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 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 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.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in

§ 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of sixty (60) days from the date of this letter to elect to be treated as a disregarded entity for federal tax purposes effective Date 1. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

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(s) requesting it. Section 6110(k)(3) of the Internal Revenue Code 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 will be sent to your authorized representatives.

Sincerely,

William P. O'Shea

William P. O'Shea
Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: