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Date:
June 17, 2011

X =

Country =

D1 =

D2 =

Dear :

This responds to a letter dated February 17, 2011, and subsequent correspondence, submitted on behalf of X by its authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election to be classified as a partnership for federal tax purposes.

FACTS

The information submitted states X was formed under the laws of Country on D1 as a foreign entity eligible to elect to be treated as a partnership for federal tax purposes. However, X inadvertently failed to timely file a Form 8832, Entity Classification Election, electing to treat X as a partnership effective D2.

LAW AND ANALYSIS

Section 301.7701-2(a) generally provides that a business entity is any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Internal Revenue Code.

Section 301.7701-3(a) provides that an eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7702(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(a) further provides that so long as a business entity is not classified as a corporation under § 301.7701-2(b)(1), or (3)-(8) (an eligible entity), it may elect its classification for federal tax purposes.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal 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.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified as other than as provided under § 301.7701-3(b) by filing a Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election 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 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 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 the term regulatory election as including an election with a deadline prescribed by a regulation published in the Internal Revenue Bulletin.

Section 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 an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that request 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 information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of 120 days from the date of this letter to file a Form 8832 with the appropriate service center and elect to be treated 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 the owners of X filing within 120 days of this letter all required returns and amended income tax returns consistent with the requested relief being effective D2. 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. A copy of this letter should be attached to any such return.

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.

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
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
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