

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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PLR-100153-21

Date:
June 06, 2021

X =

Country =

Date 1 =

Date 2 =

Year =

Dear :

This letter responds to a letter dated December 14, 2020, submitted on behalf of X, and subsequent correspondence, 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 for federal tax purposes.

FACTS

The information submitted states that X was formed in Country on Date 1. For U.S. federal income tax purposes, X is a foreign eligible entity whose default classification is an association taxable as a corporation. X's majority, indirect owner is a foreign national who became a U.S. resident in Year. This owner began reporting his indirect interest in X as a partnership interest beginning with the Year calendar taxable year. However, no Form 8832, Entity Classification Election, was filed to elect to classify X as a partnership for U.S. federal income tax purposes, because X's owners were not aware of the requirement to file this election. X is requesting an extension of time under § 301.9100-3 to make a late entity classification election to be treated as a partnership for U.S. federal income tax purposes effective Date 2.

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. X further represents that if not for the fact that it was not aware of the requirement to file an entity classification election, X would have made the entity classification election as of the election due date regardless of the enactment of the Tax Cuts and Jobs Act (TCJA) and the issuance of regulations relating to the TCJA.

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. Elections are necessary only when an eligible entity chooses to be classified initially as other than the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(1) provides that unless the entity elects otherwise, a domestic eligible entity is: (i) a partnership if it has two or more members; or (ii) disregarded as an entity separate from its owner if it has a single owner.

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) by filing Form 8832 with the appropriate service center. Section 301.7701-3(c)(1)(iii) provides that 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. The date specified on Form 8832 cannot be more than 75 days prior to 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 not more than 6 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) provides that the term “regulatory election” includes 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 (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 solely on the facts submitted and representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. 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 federal tax purposes, effective Date 2. A copy of this letter should be attached to the Form 8832.

The rulings contained in this letter are 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 request for rulings, it is subject to verification on examination.

If applicable, this entity classification 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.

In accordance with the 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 and Special Industries)

By: _____

Wendy L. Kribell
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter
Copy for § 6110 purposes

cc: