

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-109842-22

Date:
November 08, 2022

LEGEND

X =

Country =

Date =

Dear :

This responds to a letter dated March 12, 2022, and subsequent correspondence, submitted on behalf of X by X's authorized representatives, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c) to be treated as a foreign disregarded entity for federal tax purposes.

FACTS

According to the information submitted, X was formed on Date under the laws of Country. X intended to be treated as a disregarded entity for federal tax purposes effective Date. However, X inadvertently failed to timely file Form 8832, Entity Classification Election, to be treated as a disregarded entity for federal tax purposes.

X represents that it acted reasonably and in good faith, and that the interests of the government will not be prejudiced by granting relief. X further represents that no hindsight is involved in seeking the relief requested. X also represents that, if not for inadvertence, X would have made a timely filed election to be treated as a disregarded

entity regardless of the enactment of the Tax Cuts and Jobs Act (TCJA) and the issuance of regulations related to TCJA.

LAW & ANALYSIS

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 if all members have limited liability, unless the entity makes an election to be treated otherwise. A foreign eligible entity with a single owner having limited liability may elect to be treated as a disregarded entity 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 standards that 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 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 should 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 owners of X filing within 120 days of the date of this letter all required returns for all open years consistent with the requested relief. These returns may include, but are not limited to, Form 8858, Information Return of U.S.

Persons With Respect to Disregarded Entities, such that these returns reflect the consequences of the relief granted in this letter. A copy of this letter ruling should be attached to any such returns.

If applicable, X's election to be treated as disregarded as an entity separate from its owner effective on Date is disregarded for the purpose 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 of X. See § 1.965-4(c)(2).

Except as expressly provided herein, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code and the regulations thereunder. In particular, no opinion is expressed or implied regarding the application of section 367 or its underlying regulations to any step in the transaction. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

We express no opinion concerning the assessment of any interest, additions to tax, additional amounts, or penalties for failure to file a timely 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.

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.

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.

Sincerely,

/s/ _____

Laura C. Fields
Branch Chief, Branch 1
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

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Enclosure

Copy of this letter for section 6110 purposes

cc: