

**Internal Revenue Service**

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:01  
PLR-123974-23

Date:  
May 10, 2024

LEGEND

X =  
A =  
Country =  
Date 1 =  
Date 2 =

Dear :

This responds to a letter dated November 1, 2023, 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 classified as a partnership for federal tax purposes, effective Date 2.

FACTS

According to the information submitted, X was formed on Date 1 as a limited liability partnership under the laws of Country. As an entity whose members all had limited liability, X's default classification under § 301.7701-3(b)(2)(B) was as an association taxable as a corporation for federal tax purposes. X has never engaged in a U.S. trade or business. On Date 2, A, a U.S. citizen, became a partner of X. Due to inadvertence, X and A were unaware of the need to timely file Form 8832, Entity Classification Election, for X to be treated as a partnership for federal tax purposes, effective Date 2. At all times since Date 2, X and A have consistently reported as if X was a partnership.

X represents that it has 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.

### LAW AND ANALYSIS

Section 301.7701-3(a) provides, in 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 as provided in § 301.7701-3. An eligible entity with at least two members may elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or as 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(b)(2)(ii) provides that for purposes of § 301.7701-3(b)(2)(i), a member of a foreign eligible entity has limited liability if the member has no personal liability for the debts of or claims against the entity by reason of being a member.

Section 301.7701-3(c)(1)(i) provides, in part, 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 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. 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 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 6 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 an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 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 the election. 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 regulator elections that do not meet the requirements of § 301.9100-2.

Under § 301.9100-3, a request for relief will be granted when the taxpayer provides 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) 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 § 301.9100-1 and 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 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 filed for X.

This ruling is contingent on X and its owner(s), filing, within 120 days of this letter, all required federal income tax returns and information returns (including amended returns) consistent with the requested relief granted in this letter. These returns may include, but are not limited to, the following forms: (i) Forms 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, (ii) Forms 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships, and (iii) Forms 8858, Information Return of U.S. Persons With Respect to Disregarded Entities, such that these forms 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, the election described above is disregarded for purposes of determining the amounts of all § 965 elements of all United States shareholders of X if the election otherwise would change the amount of any § 965 element of any such United States shareholder. See § 1.965-4(c)(2).

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code and the regulations thereunder. 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 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, copies of this letter are being sent to X's authorized representatives.

Sincerely,

Holly Porter  
Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_  
Christiaan T. Cleary  
Assistant to the Branch Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure  
Copy of Letter for § 6110 purposes

cc: