



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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INTERNAL REVENUE SERVICE NATIONAL OFFICE FIELD SERVICE ADVICE

MEMORANDUM FOR Associate Area Counsel (LMSB), Austin, Texas
CC:LM:NR:HOU:1AUS

FROM: Associate Chief Counsel (CORP) CC:CORP:B5

SUBJECT: F Reorganization

This Chief Counsel Advice responds to your memorandum dated April 26, 2002, concerning whether a transaction may qualify as an F reorganization under section 368(a)(1)(F) of the Internal Revenue Code. Field Service Advice is not binding on Examination or Appeals and is not a final case determination. This Chief Counsel Advice should not be cited as precedent.

LEGEND

Corporation X =

Limited Partnership X =

State X =

Product X =

Date A =

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ISSUE

Whether a corporation which converts under state law to a limited partnership, and subsequently elects under section 301.7701-3 of the regulations to be treated as a corporation for federal income tax purposes is eligible to be treated as if it had undergone a reorganization under § 368(a)(1)(F).

CONCLUSION

In certain instances a corporation undergoing a transaction similar to the one described below, may be treated as if it had undergone a reorganization under § 368(a)(1)(F).

FACTS

Corporation X was a closely held corporation which produced Product X for schools, hospitals, foundations and corporations. In Date A pursuant to a State X statute, the shareholders converted the corporation into a limited partnership and elected under the check-the-box regulations (§ 301.7701-3) to treat the state law limited partnership as a corporation for federal tax purposes.

A certificate of conversion was issued by the Secretary of State of State X, acknowledging that the State X corporation known as Corporation X was converted to a State X limited partnership known as Limited Partnership X. Following the conversion and election, the entity continues to file its federal income tax returns on Form 1120 as a corporation, consistent with the election to be treated as a corporation for federal income tax purposes.

LAW AND ANALYSIS

Section 368(a)(1)(F) defines an "F" reorganization as a mere change in identity, form, or place of organization of one corporation, however effected. Section 1.368-1 provides general requirements for reorganizations.

Under § 301.7701-3 a business entity that is an eligible entity can elect its classification for federal tax purposes. An eligible entity is 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 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. § 301.7701-3(a).

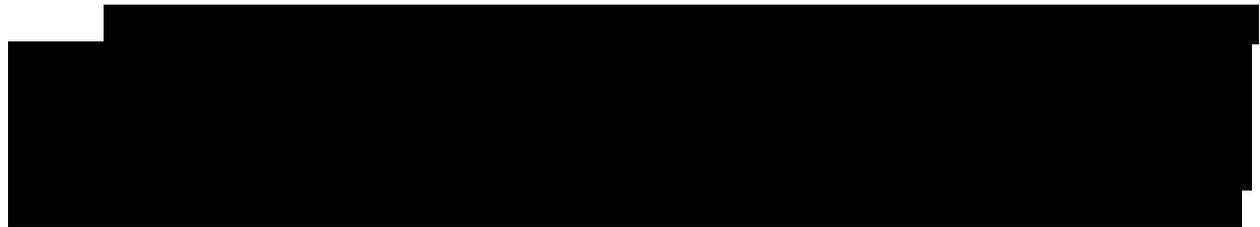
An election designating or changing an eligible entity's classification for federal tax purposes is effective on the date specified by the eligible entity on Form

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8832. § 301.7701-3(c)(1)(iii). The specified effective date can not be more than seventy-five (75) days prior to the date on which the election is filed and can not be more than twelve (12) months after the date on which the election is filed. Id.

Based upon the above, if the effective date of the election by Limited Partnership X to be treated as an association taxable as a corporation immediately follows the last day of Corporation X, then Limited Partnership X has never existed as a partnership for federal tax purposes. Therefore, assuming all other statutory and judicial requirements have been met, the transaction could qualify as a reorganization under § 368(a)(1)(F).

CASE DEVELOPMENT, HAZARDS AND OTHER CONSIDERATIONS



This writing may contain privileged information. Any unauthorized disclosure of this writing may have an adverse effect on privileges, such as the attorney client privilege. If disclosure becomes necessary, please contact this office for our views.

Should you have any additional questions, please contact Branch 5 at (202) 622-7550.

Associate Chief Counsel (Corporate)

By: _____

John P. Moriarty
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Branch 5