

Internal Revenue Service

Department of the Treasury

Number: **200148043**
Release Date: 11/30/2001
Index Number: 9100.00-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:1-PLR-126946-01

Date:

August 30, 2001

Legend:

X =

D1 =

This responds to a letter dated May 11, 2001, submitted on behalf of X, requesting a ruling that X be granted an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to elect to be treated as a corporation for federal tax purposes under § 301.7701-3(c).

FACTS

According to the information submitted, X was formed on D1. X and X's sole owner intended from inception to elect to classify X as a corporation for federal tax purposes. However, Form 8832, Entity Classification Election, was not timely filed.

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. An eligible entity with one member can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or to be treated as an entity disregarded from its owner.

Section 301.7701-3(b)(1)(ii) provides, in part, that unless a domestic eligible entity elects otherwise, it is disregarded as an entity separate from its owner if it has a single owner.

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) by filing Form 8832, Entity Classification Election, with the applicable service center.

Section 301.7701-3(c)(1)(iii) provides, in part, that an election made under § 301.7701-3(c)(1)(i) 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 effective date specified on Form 8832 can not be more than 75 days prior to the date on which the

election is filed and can not be more than 12 months after the date on which the election 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 Code, except subtitles E, G, H and I, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting the relief will not prejudice the interests of the government.

Sections 301.9100-2 and 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. 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 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 for making the election to be treated as a corporation for federal tax purposes, effective D1, until 60 days following the date of this letter. X should make the election by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to that Form.

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(s) 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 the taxpayer.

Sincerely,
Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)
copy of this letter
copy for § 6110 purposes