

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:3 PLR-119867-01

Date:

September 13, 2001

Partnership:

a:

Dear

This letter responds to your letter dated March 26, 2001, submitted on behalf of Partnership, requesting an extension of time for Partnership to elect under § 301.7701-3(c) of the Procedure and Administration Regulations to be treated as an association taxable as a corporation. Partnership represents the following facts.

The partners of Partnership intended that Partnership be treated as a corporation effective a. However, due to inadvertence, Partnership did not file Form 8832, Entity Classification Election.

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) may elect its classification for federal tax purposes as provided in this section. 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.

Section 301.7701-3(b)(1)(i) provides in general that, unless it elects otherwise, a domestic eligible entity with two or more members is a partnership.

Section 301.7701-3(c)(1)(i) provides in general that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832 with the applicable service center.

Section 301.7701-3(c)(1)(iii) provides 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 Internal

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Revenue Code, except subtitles E, G, H, and I.

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 a regulatory election. Section 301.9100-1(a).

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. Section 301.9100-3(a).

Based on the information submitted and representations made, Partnership has established that the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied. Consequently, Partnership is granted an extension of 60 days from the date of this letter for electing under § 301.7701-3 to be treated as an association taxable as a corporation effective a. Partnership must file Form 8832 within the extension period with the appropriate service center, with a copy of this letter attached.

Except for the specific ruling above, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Code. Section 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.

In accordance with the power of attorney on file with this office, we are sending you the original of this letter and a copy to the taxpayer.

This ruling is directed only to the taxpayer on whose behalf it was requested. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

Sincerely,
PAUL F. KUGLER
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures: Copy of this letter
Copy for § 6110 purposes