

Internal Revenue Service

Department of the Treasury

Number: **200209041**
Release Date: 3/1/2002
Index Number: 9100.31-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2-PLR-140797-01

Date:

November 30, 2001

Legend

X:

State:

D1:

D2:

Dear _____ :

This responds to the letter dated July 26, 2001, submitted on behalf of X, requesting a time extension under § 301.9100-3 of the Procedure and Administration Regulations for X to elect to be treated as a corporation for federal tax purposes.

According to the information submitted, X was validly formed under State law on D1. On D2, X converted under State law into a State limited liability company. For federal tax purposes, X intended to continue as an S corporation. However, X inadvertently failed to timely file a 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*) can elect its classification for federal tax purposes. 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, 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)(1) provides that, except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a domestic eligible entity is -- (i) A partnership if it has two or more members; or (ii) Disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided in § 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the appropriate service center. Section 301.7701-3(c)(1)(iii) provides that all such elections will be effective on the date specified on Form 8832 or

PLR-140797-01

on the date filed if no effective date is specified. The specified effective date cannot be more than 75 days prior to the filing date of Form 8832, nor later than twelve months after the filing date.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of § 301.9100-3. Under § 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register.

Under § 301.9100-3, a request for relief 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.

Based solely on the facts submitted and the representations made, we conclude that X has satisfied the requirements of § 301.9100-3. As a result, X is granted an extension of time to elect to be classified as an association taxable as a corporation for federal tax purposes, effective D2, 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 the facts described above under any other provision of the Internal Revenue Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

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

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