

## Internal Revenue Service

Department of the Treasury

Number: **200209048**  
Release Date: 3/1/2002  
Index Number: 9100.31-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:1-PLR-157271-01

Date:

December 3, 2001

### Legend

X =

Y =

Country =

Date 1 =

This letter responds to a letter dated October 5, 2001, submitted on behalf of X, requesting a ruling that X be granted an extension of time under section 301.9100-3 of the Procedure and Administration Regulations to file an election under section 301.7701-3(c) to be treated as a corporation for federal tax purposes.

### Facts

According to the information submitted, Y, a corporation under federal tax law, reorganized on Date 1, and became X, a limited liability company under the law of Country. X has a general partner and limited partners. X intended to elect to be treated as a corporation for federal tax purposes effective Date 1. However, X inadvertently failed to timely elect corporation status.

### Law and Analysis

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as a partnership if it has two or more members and at least one member does not have limited liability, unless the entity makes an election to be treated otherwise. If a foreign eligible entity has more than one owner, it may elect to be taxable as a corporation pursuant to the rules under section 301.7701-3(c). Section 301.7701-3(c) provides that an entity classification election must be filed on Form 8832 and can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date on which the form is filed.

Under section 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

PLR-157271-01

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. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose deadline is prescribed by a regulation published in the internal revenue bulletin.

Section 301.9100-1 through 301.9100-3 provide the standards that the Commissioner will use to determine whether to grant an extension of time to make an 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 section 301.9100-2.

Requests for relief under section 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).

### Conclusion

Based solely on the facts submitted and the representations made, we conclude that the requirements of section 301.9100-3 have been satisfied. As a result, X is granted an extension of time of sixty (60) days from the date of this letter to make an election to be treated as a corporation for federal tax purposes effective Date 1. X should make the election by filing a properly executed Form 8832 with the appropriate service center. A copy of this letter should be attached to the form.

Except as specifically provided herein, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code.

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

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

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

Enclosures (2):

Copy of this letter  
Copy for § 6110 purposes