

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:PLR-147553-01

Date:

January 3, 2002

Legend:

X =

Country =

Date 1 =

Dear :

This letter responds to your request for a written determination, dated September 4, 2001, submitted on behalf of X, seeking a ruling that X be granted an extension of time pursuant to section 301.9100 of the Procedure and Administration Regulations to file a corrected Form 8832, Entity Classification Election.

Facts

Based on the information submitted, X is a Country entity that desired to be classified as entity separate from its owner as of Date 1. X is an entity that is eligible to elect, under section 301.7701-3(c), to be treated as an entity separate from its owner for federal income tax purposes. However, X failed to timely elect to be treated as a disregarded entity.

X also represents that it is not currently under audit for its incorrectly filed Form 8832, and such an extension to correct the mistake would not prejudice the interests of the government.

Law and Analysis

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign entity for federal income tax purposes. Generally, a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise. If a foreign eligible entity has only one owner, it may elect to be treated as a disregarded entity pursuant to the rules in 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 seventy-five (75) days prior to the date the form is filed or up to twelve (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 than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code, except 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 granting the relief will not prejudice the interests of the government. 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.

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 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.

Conclusion

Based solely on the facts and the representations submitted, we conclude that the requirements of sections 301.7701 and 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of sixty (60) days from the date of this letter to file a corrected Form 8832, effective Date 1, with the appropriate service center. A copy of this letter should be attached to the election. A copy is enclosed for that purpose.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provision of the Code. Specifically, we express no opinion as to X's eligibility to request treatment as a disregarded entity in accordance with section 301.7701.

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 this letter is being sent to the taxpayer representatives.

Sincerely,

/s/ Paul F. Kugler
Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)

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

cc: