

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-153766-01
Date:
January 10, 2002

LEGEND

- X =
- d1 =
- Country =

Dear

This letter responds to your letter, dated September 18, 2001, on behalf of X, requesting an extension of time for X to elect to be treated as a disregarded entity under § 301.7701-3 of the Procedure and Administration regulations.

FACTS

According to the information submitted, X was formed as an exempted company with limited liability under the laws of Country on d1. X intended to elect to be treated as an entity disregarded from its owner for federal tax purposes. However, due to inadvertence, X did not timely file Form 8832 Entity Classification Election.

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 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 one owner, it may elect to be taxable as an entity that is disregarded as an entity separate from its owner pursuant to the rules in § 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 § 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. Section 301.9100-1(b) defines the term "regulatory election" as including an election whose deadline is prescribed by a regulation published in the Federal Register.

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 an election. Section 301.9100-1(a). Section 301.9100-2 provides automatic extension(s) of time for making certain elections but does not apply to elections under § 301.9100-3. 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).

CONCLUSIONS

Based solely on the facts submitted and the representations made, the requirements of §§ 301.9100-1 and 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 an entity that is disregarded from its owner effective d1.

X should make the election by filing a properly executed Form 8832 and attaching a copy of this letter to the election. A copy is enclosed for that purpose.

Except as specifically set forth above, 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 a power of attorney on file with this office, a copy of this letter is being sent to the taxpayer.

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

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