

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:B3 PLR-156964-01
Date:
February 15, 2002

Legend

X =

A =

D1 =

State =

Dear :

This letter responds to your letter dated September 19, 2001, and subsequent correspondence on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to file an election to be treated as an association taxable as a corporation for federal tax purposes.

FACTS

According to the information submitted, X was formed on D1 as a State law limited liability company. The sole member of X is A. X intended to make an election under § 301.7701-3 to classify X as an association taxable as a corporation for federal tax purposes as of D1. However, the election was not filed timely.

LAW AND ANALYSIS

Section 301.7701-3(a) provides, in part, that a business entity that is not classified as a corporation under section 301.7701-2(b)(1), (3), (4), (5),(6), (7), or (8) (an eligible entity) can 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 section 301.7701-2(b)(2)) or a partnership.

Section 301.7701-3(b)(1)(i) provides that unless a domestic eligible entity elects otherwise, it is 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 service center designated on Form 8832.

Section 301.7701-3(c)(1)(iii) provides that an election under § 301.7701-3(c)(1)(i) will be effective on the date specified on Form 8832 or on the date filed if no such date is specified on the form. The effective date specified on Form 8832 cannot be more than 75 days prior to the date the form is filed and cannot be more than 12 months after the date on which the form is filed.

Under § 301.9100-1(c) of the Procedure and Administration Regulations, 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. 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, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

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 301.9100-2 provides an automatic extension of time for making certain elections, and § 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 to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

CONCLUSIONS

Based on the facts submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of 60 days from the date of this letter to file Form 8832, effective on D1, with the appropriate service center. A copy of this letter should be attached to the election.

Except as specifically set forth above, we express or imply no opinion concerning the tax consequences under any other provision of the Code.

Pursuant to a power of attorney on file with this office, a copy of this letter is

being sent to the taxpayer.

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

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

Enclosures: 2
Copy of this letter
Copy for section 6110 purposes