

## Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B01-100346-02

Date:

March 18, 2002

### Legend

X =

Y =

Z =

Date 1 =

This letter responds to your letter, dated December 19, 2001, on behalf of X, requesting a ruling that X be granted an extension of time pursuant to section 301.9100-3 of the Procedure and Administration Regulations to file an election to be treated as a disregarded entity for federal income tax purposes under section 301.7701-3(c).

### Facts

Based on the information submitted and representations made within, X is a foreign subsidiary corporation of Y. Y is a member of a consolidated group of corporations owned by Z, a domestic corporation. X intended to file a Form 8832, Entity Classification Election, seeking to be treated as a disregarded entity, effective Date 1. X inadvertently failed to file the Form 8832.

X represents that an entity classification election has never been previously been filed for X, and that an extension to file a Form 8832 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. 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 section 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(s) requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

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In accordance with the Power of Attorney on file with this office, a copy of this ruling will be sent to the taxpayer.

Sincerely,

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

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