

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-137425-01
Date:
April 19, 2002

LEGEND

X =

d1 =

Country =

Dear :

This letter responds to your letter, dated July 9, 2001, and subsequent correspondence on behalf of X, requesting an extension of time for X to elect to be treated as an association taxable as a corporation under § 301.7701-3 of the Procedure and Administration regulations.

FACTS

According to the information submitted, X was formed on d1 in Country. The founders of X intended for X to elect to be classified for federal tax purposes as an association taxable as a corporation, under § 301.7701-3(a). However, due to inadvertence, X's Form 8832, Entity Classification Election, was not filed correctly.

LAW AND ANALYSIS

Section 301.7701-3(a) provides, in part, that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an *eligible* entity) can elect its classification for federal tax purposes. An eligible entity with more than one owner can elect to be classified as an association or as a partnership.

Section 301.7701-3(b)(2)(i) provides that, unless the entity elects otherwise, a foreign eligible entity is (A) a partnership if it has two or more members and at least one member does not have limited liability; (B) an association if all members have limited liability; or (C) disregarded as an entity separate from its owner if it has a single owner that does not have limited liability.

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the applicable service center.

Section 301.7701-3(c)(1)(iii) provides, in part, that an election made under § 301.7701-3(c)(1)(i) will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The effective date specified on Form 8832 can not be more than 75 days prior to the date on which the election is filed and can not be more than 12 months after the date on which the election 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. Section 301.9100-1(b) defines the term "regulatory election" as including an election whose due date 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, we find 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 sixty (60) days from the date of this letter to make an election to be treated as association taxable as a corporation for federal tax purposes 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(s) requesting it. Section 6110(k)(3) of the Internal Revenue 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,

/s/

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

Enclosures (2)

cc: