

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2-PLR-137536-02

Date:

November 5, 2002

Legend

X =

Y =

State =

Date 1 =

Dear

This responds to your letter dated June 27, 2002, submitted on behalf of X, requesting time extensions under § 301.9100-3 of the Procedure and Administration Regulations for X to elect to be classified as an association taxable as a corporation for federal tax purposes.

Facts

The information submitted states that X is a series of Y, a State business trust. X intended to elect to be classified as an association taxable as a corporation effective on Date 1. However, due to inadvertence, a Form 8832, Entity Classification Election, was not timely filed for X.

Law and Analysis

Section 301.7701-3(a) provides 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. An eligible entity with a single owner can elect to be classified either as an entity disregarded as separate from its owner or as an association.

Section 301.7701-3(b)(1) provides that a domestic eligible entity with a single owner will be disregarded as an entity separate from its owner unless it elects otherwise.

Section 301.7701-3(c)(1)(i) allows an eligible entity to elect to change its classification by filing Form 8832, Entity Classification Election. Section 301.7701-3(c)(1)(iii) provides that all such elections become effective on the date specified by the entity on Form 8832 or on the date filed if no effective date is specified. The specified effective date must not be earlier than 75 days prior to the filing date of Form 8832, nor later than twelve months after the filing date.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of sections 301.9100-2 and 301.9100-3. Under section 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-3 sets forth the standards that the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner will grant relief when the taxpayer provides evidence proving 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.

Conclusion

Based solely on the information submitted and the representations made, we conclude that X has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time for sixty (60) days from the date of this letter to elect to be treated as an association taxable as a corporation for federal tax purposes, effective Date 2. X should make the election by filing a Form 8832 with the appropriate service center. A copy of this letter should be attached to that form.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to X and X's second authorized representative.

Sincerely,
Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter
Copy for section 6110 purposes