

Internal Revenue Service

Department of the Treasury

Number: **200316024**
Release Date: 4/18/2003
Index Number: 9100.31-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2-PLR-148895-02

Date:

January 8, 2003

Legend

X =

State =

Date 1 =

Dear :

This responds to your letter dated August 28, 2002, submitted on behalf of X, requesting an extension of time 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

According to the information submitted, X was formed on Date 1 under State law. X intended to elect to be treated as an association taxable as a corporation, effective Date 1. However, Form 8832, Entity Classification Election, inadvertently was not timely filed.

Law and Analysis

Section 301.7701-3(a) provides 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 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 two or more members will be treated as a partnership, unless it elects otherwise.

To elect to be classified other than as provided in § 301.7701-3(b), an eligible entity must file 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 §§ 301.9100-2 and 301.9100-3. Under § 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 §§ 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time of 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 1. 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.

Sincerely,

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

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