

Internal Revenue Service

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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
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Date:
March 03, 2005

Dear [REDACTED]:

This is in response to your letter dated November 29, 2004, in which you requested advice regarding § 301.7701-3 of the Procedure and Administration Regulations.

Section 301.7701-2(a) defines a “business entity” as any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Code. 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 as provided in this section.

Section 301.7701-3(b)(1) provides that, except as otherwise provided in paragraph (b)(3) of that section, unless the entity elects otherwise, a domestic eligible entity is (i) a partnership if it has two or more members; or (ii) disregarded as an entity separate from its owners if it has a single owner. Section 301.7701-3(c)(1) 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.

A sole proprietor cannot elect to be treated as an association. A sole proprietor is not an entity recognized for federal tax purposes, and therefore is not a business entity as defined in § 301.7701-2(a). Because a sole proprietor is not a business entity, it cannot be an eligible entity as defined in § 301.7701-3(a). Pursuant to § 301.7701-3(c)(1), only eligible entities can make an entity classification election. Because a sole proprietor is not an eligible entity, it cannot make an entity classification election.

We hope that this information is helpful to you. If you have additional questions, please contact _____ at _____ (not a toll-free call).

Sincerely,

/s/ Dianna K Miosi

Dianna K. Miosi
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