

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B02 – PLR-120977-05

Date:

February 10, 2006

X =

Y =

Country =

Date 1 =

Date 2 =

Dear :

This letter responds to your letter dated April 14, 2005, and subsequent correspondence, submitted on behalf of X and Y, requesting a ruling that X and Y, each be given an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c).

The information submitted states that X is an entity formed under the laws of Country. Y, a wholly owned subsidiary of X, is an entity formed under the laws of Country. It was intended that X and Y each file Form 8832, Entity Classification Election, effective on Date 1 and Date 2, respectively. However, X and Y each inadvertently failed to file Form 8832.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal 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 has a single member and makes an election to be treated as a disregarded entity

PLR-120977-05

pursuant to the rules in § 301.7701-3(c). If the entity has more than one owner, it may elect to be treated as a partnership pursuant to the rules in § 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 75 days prior to the date the form is filed or up to 12 months after the date on which the form is filed.

Section 301.7701-3(g)(3)(iii) provides that when elections under § 301.7701-3(c)(1)(i) for a series of tiered entities are effective on the same date, the eligible entities may specify the order of elections on Form 8832.

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 Internal Revenue 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, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

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 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 § 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).

Based solely on the information submitted, we conclude that X and Y each have satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, X and Y are each granted an extension of 60 days from the date of this letter to make an entity classification election under § 301.7701-3(c). Each entity classification election should be made by filing Form 8832 with the appropriate service center. Additionally, in accordance with § 301.7701-3(g)(3)(iii), the entities may specify the order of the elections of X and Y and may deem the order to be, for instance, from the bottom tiered entity to the top tiered entity on Form 8832. A copy of this letter should be attached to each Form 8832. A copy is enclosed for that purpose.

PLR-120977-05

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(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 X.

Sincerely,

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

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