

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:  
CC:PSI:1-PLR-118064-00  
Date:  
April 12, 2001

Legend:

A =

B =

X =

Y =

D1 =

D2 =

Country1 =

Country2 =

This responds to your letter dated November 30, 2000, and prior correspondence, submitted on behalf of B requesting an extension of time pursuant to §301.9100-3(a) of the Procedure and Administration Regulations to file an election to be treated as a partnership for Federal tax purposes under § 301.7701-3(c).

**FACTS**

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A is an entity that was established under the laws of Country 1 on D1. The owners of A are X and Y. B is an entity that was established under the laws of Country 2 on D2. The owners of B are A and X. A and X are not liable for any of the debts or liabilities of B and have limited liability as defined in § 301.7701-3(b)(2)(ii).

B represents that it intended to make an election to be treated as a partnership, but that it inadvertently failed to make the election.

### **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 more than one owner can elect to be classified as an association or to be a partnership. Section 301.7701-3(b)(2)(B) provides that, unless the entity elects otherwise, a foreign eligible entity is an association if all its members have limited liability.

Under § 301.7701-3(c)(1)(i), a foreign eligible entity with more than one owner, all of whom have limited liability, can elect to be classified as a partnership by filing a Form 8832. To be valid, an election must generally be signed by each member of the electing entity, or any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organizational documents) to make the election and who represents to having such authorization under penalties of perjury. See § 301.7701-3(c)(2)(i). 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 cannot be more than 12 months after the date on which the election is filed. § 301.7701-3(c)(1)(iii).

Section 301.9100-1(c) of the Procedure and Administration Regulations provides that the Commissioner has discretion to grant a reasonable extension of time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines a regulatory election as 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 Service Bulletin.

Sections 301.9100-1 through 301.9100-3 provide standards the Commissioner will use to determine whether to grant an extension of time to make an election. § 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.

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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. § 301.9100-3(a).

### CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, B is granted an extension of time to make the election to be treated as a partnership for federal tax purposes, effective D2, until 60 days following the date of this letter. The election should be made by following the procedure set forth in Form 8832 and a copy of this letter should be attached to the election.

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 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 the taxpayer.

Sincerely,

**/s/ Paul F. Kugler**

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

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