

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:3-PLR-150933-01

Date:

January 17, 2002

LEGEND

Company =

X =

Date 1 =

Date 2 =

State =

Country =

Dear

This letter responds to your submission on behalf of Company dated September 7, 2001, requesting a ruling that Company be given an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file a Form 8832 to change its classification pursuant to § 301.7701-3(c) effective for Date 1.

FACTS

According to the information submitted, Company is a Limited Liability Company in State and was formed on Date 1 by X, a corporation in Country. Company is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8). X has been Company's sole owner since Date 1.

Company intended to be classified as an association as of Date 1. Company informed its accountants of its intent regarding its classification as an association in a timely manner. However, Company's accountants failed to advise Company to make the proper election and no election was filed.

On or about Date 2, the accountants were preparing Company's initial tax returns and they discovered that the election had not been filed and that Company would not be treated for tax purposes as an entity separate from X. Company immediately sought relief under § 301.9100.

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 as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(b)(1)(ii) provides that, unless the entity elects otherwise, a domestic eligible entity is disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed.

Under § 301.9100-1(c), the Commissioner has discretion to 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) of all subtitles of the Code, except subtitles E, G, H, and I.

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 301.9100-2 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.

Section 301.9100-3(a) provides that requests for relief 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.

CONCLUSION

Based solely on the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Company is granted 60 days from the date of this letter to file a Form 8832, Entity Classification Election, to elect to be treated as an association as of Date 1. A copy of this letter should be attached with the election. A copy is included for that purpose.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code.

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. The

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rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. In particular, this ruling is based on the representation that all parties have treated, and will continue to treat Company as an association for all federal tax purposes. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Under a Power of Attorney on file with this office, we are sending a copy of this letter to the taxpayer's authorized representative.

Sincerely,
Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)

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

cc: