

Internal Revenue Service

Department of the Treasury
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Person To Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B02 – PLR-167232-03

Date:

February 11, 2004

Legend:

X =

Y =

Z =

Date 1 =

Date 2 =

Date 3 =

Country 1 =

Country 2 =

State =

Dear :

This letter responds to a letter dated November 14, 2003, and subsequent correspondence, submitted on behalf of X, requesting a ruling that X be granted an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c) to be treated as a disregarded entity for federal tax purposes.

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According to the information submitted, X was incorporated on Date 1 under the laws of Country 1. Y, a corporation formed under the laws of State, owned 100 percent of the stock of X. Y also owns 100 percent of the stock of Z, a company incorporated under the laws of Country 2. On Date 2, Y implemented a plan of reorganization by transferring to Z all of its outstanding shares in X solely in exchange for additional shares issued by Z. As part of the reorganization, X intended to make an election to be disregarded as an entity separate from its owner, effective Date 3. However, X inadvertently failed to timely file the proper election.

X represents that it is a foreign eligible entity that is not required to be classified as a corporation for U.S. federal income tax purposes. X also represents that all members of X have limited liability.

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 if all members have limited liability, unless the entity makes an election to be treated otherwise. A foreign eligible entity with a single owner having limited liability may elect to be treated as a disregarded entity pursuant to the rules under § 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.

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 deadline is prescribed by a regulation 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 a regulatory 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).

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Based on the information submitted and representations made, X has established that the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied. Consequently, X is granted an extension of 60 days from the date of this letter to make an election under § 301.7701-3 to be treated as a disregarded entity effective Date 3. X must file Form 8832 within the extension period with the appropriate service center, with a copy of this letter attached.

Except for the specific ruling above, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Code. Section 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

This ruling is directed only to the taxpayer on whose behalf it was requested. According to § 6110(k)(3) of the Internal Revenue Code, this ruling may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

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

Enclosures:

Copy of this letter
Copy for 6110 purposes