

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:Br.1-PLR-143419-01

Date:

August 23, 2001

X =

A =

B =

Date 1 =

Date 2 =

This letter responds to a letter dated March 1, 2001, and subsequent correspondence, written on behalf of X, A, and B requesting a ruling, under sections 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations, that B be granted an extension of time for making an election to be disregarded as an entity separate from its owner for federal tax purposes.

FACTS

According to the information submitted, X, a domestic corporation, purchased the stock of A (a foreign company) on Date 2. B is a subsidiary of A. X, A and B intended that B be disregarded as an entity separate from its owner as of Date 1. However, Form 8832, Entity Classification Election, was not timely filed.

LAW AND ANALYSIS

Section 301-7701-3(b)(2) classifies eligible foreign entities for federal tax purposes. This section classifies any foreign eligible entity whose members all have limited liability as an association, unless the entity elects otherwise.

Section 301.7701-3(c)(1)(i) allows an entity to elect to change its classification by filing Form 8832, Entity Classification Election, with the service center designated on that Form. Section 301.7701-3(c)(1)(iii) provides that all such elections become effective on the date specified by the entity on Form 8832 or on the date filed if no

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effective date is specified. The specified effective date must not be earlier than 75 days prior to the filing date of Form 8832, nor later than twelve months after that filing date.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of sections 301.9100-2 and 301.9100-3. Under section 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register or a notice 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 extension of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of section 301.9100-2. Requests for relief under section 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).

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that B has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, B is granted an extension of time of sixty (60) days from the date of this letter to file a properly executed Form 8832 with the appropriate service center, effective Date 1. 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. Specifically, no opinion is expressed concerning the tax consequences which may result from the application of the step transaction doctrine to the election and purchase.

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 Powers of Attorney on file with this office, copies of this letter are being sent to X and to B's authorized representative.

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

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