

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B03/PLR-167254-01

Date:

December 18, 2002

Legend

P =

C =

Date =

State =

Country =

Dear :

This letter responds to a letter dated November 27, 2001, submitted by your authorized representative on behalf of P, requesting an extension of time under §301.9100-3 of the Procedure and Administration regulations to file an election to be treated as an association taxable as a corporation for federal tax purposes under §301.7701-3(c), effective Date.

Facts

According to the information submitted, P is a limited liability company, formed on Date in State. P's sole member is C, a foreign corporation incorporated in Country.

Following the formation of P, it was the intent of C that P be treated as a association taxable as a corporation for federal tax purposes. C was unaware of the election requirements and did not file a Form 8832, Entity Classification Election. P filed a Form 1120, U.S. Corporate Income Tax Return, for its first taxable year.

Law

Section 301.7701-3(a) provides, in part, 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. Under §301.7701-

2(c)(1), a domestic eligible entity with one owner can elect to be classified as an association taxable as a corporation. Section 301.7701-3(b)(1)(ii) states that unless it elects otherwise, a domestic eligible entity with one owner will be disregarded as an entity separate from its owner.

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided under section 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the applicable service center. Section 301.7701-3(c)(1)(iii) provides, in part, that an election made under § 301.7701-3(c)(1)(i) will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. 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 can not be more than 12 months after the date on which the election 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 Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "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 an announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 and 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.

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).

CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, P is granted an extension of time to file Form 8832 with the appropriate service center to elect to be treated as an association taxable as a corporation, effective Date, until 60 days following the date of this letter. A copy of this letter should be attached to the election. A copy is enclosed for that purpose.

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 Internal Revenue Code provides that it may not be used or cited as precedent.

Sincerely,

/s/

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

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