Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01 – PLR-105639-04
Date:
 March 30 2004

X   =

D1   =

D2   =

State =

Dear

        This letter responds to your letter dated December 18, 2003 submitted on behalf of X requesting a time extension under section 301.9100-3 of the Procedure and Administration Regulations for X to elect to be treated as an association taxable as a corporation for federal tax purposes.

                                FACTS

        According to the information submitted, X was formed on D1 under State law. X intended to elect to be treated as an association taxable as a corporation effective D2. However, Form 8832, Entity Classification Election, inadvertently, was not timely filed.

                        LAW AND ANALYSIS

        Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under section 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 an association.

Section 301.7701-3(b)(1) provides that an eligible entity with more than one owner will be a partnership unless it elects otherwise.

Section 301.7701-3(c)(1)(i) allows an eligible 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 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 the 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.

Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner will grant relief when the taxpayer provides evidence proving to the satisfaction of the Commissioner 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 X has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time of 60 days following the date of this letter for making the election to be treated as an association taxable as a corporation for federal tax purposes, effective D2. X should make the election by filing Form 8832 with the appropriate Service Center. A copy of this letter should be attached to that Form.

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.

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

PLR-144344-03

The 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. 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.

Sincerely,

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

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