

**Internal Revenue Service**

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:  
CC:DOM:P&SI:3 PLR-104746-00  
Date:  
July 7, 2000

**LEGEND:**

X            =  
D1            =

Dear

This letter responds to a letter dated February 24, 2000, written on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an entity classification election under § 301.7701-3(c).

**FACTS**

According to the information submitted and the representations made, X is a foreign eligible entity classified as an association under § 301.7701-3(b)(2)(i)(B). X intended to file an election using Form 8832, Entity Classification Election, to change its classification to a partnership effective D1. However, the Form 8832 was not filed timely.

X requests a ruling that it will be recognized as a partnership effective D1.

**LAW**

Section 301.7701-3(c)(i) provides that an eligible entity may elect to be classified as other than its default classification in § 301.7701-3(b) by filing Form 8832 with the appropriate service center. Section 301.7701-3(b)(2)(i)(B) provides that, unless the entity elects otherwise, a foreign eligible entity is classified as an association if all its members have limited liability.

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 announcement 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 301.9100-2 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.

### **CONCLUSION**

In the present situation, good cause has been shown and the other requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, X is granted an extension of time for making the § 301.7701-3(c) election until 60 days following the date of this letter. The election should be made by following the procedure set forth in Form 8832. A copy of this letter should be attached to the election. One is enclosed for that purpose.

Except as specifically set forth above, no opinion is expressed or implied as to the federal tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether X is, in fact, a partnership for federal tax purposes, or as to the withholding requirements under Chapter 3 of the Code.

The ruling contained in this letter is 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 the ruling, it is subject to verification on examination.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Under a power of attorney on file with this office, a copy of this letter will be sent to X's authorized representative.

Sincerely yours,  
PAUL F. KUGLER  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures: 2  
Copy of this letter  
Copy for § 6110 purposes