

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

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Refer Reply To:

CC:PSI:BO1 PLR-107956-00

Date:

August 9, 2000

Legend

X =
Country =
D1 =
D2 =
D3 =
D4 =

This responds to the letter dated March 29, 2000, submitted on behalf of X, requesting an extension of time pursuant to § 301.9100-3(a) of the Procedure and Administration Regulations to file an election under § 301.7701-3(c) to be classified as a partnership for federal tax purposes.

FACTS

X was formed as a Limited Liability Company under Country law on D1. X has two or more members and no member of X has personal liability for the debts of or claims against X by reason of being a member. X intended to elect to be classified as a partnership, effective D2.

On D3, X submitted a Form 8832, Entity Classification Election, on which it elected to be treated as a partnership. The election, however, did not contain all the required signatures. On D4, X filed a second Form 8832, containing all the required signatures. This election, however, was untimely for an effective date of D2.

LAW AND ANALYSIS

Section 301.7701-3(a) of the Procedure and Administration Regulations provides 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 as provided in this section. Section 301.7701-3(a) further provides that an eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or a partnership.

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Section 301.7701-3(b) provides default classifications for eligible entities that do not make an election. In general, unless the entity elects otherwise, a foreign eligible entity is an association if all members have limited liability. Section 301.7701-3(b).

To elect to be classified other than as provided in § 301.7701-3(b), an eligible entity must file Form 8832, Entity Classification Election, with the designated service center. Section 301.7701-3(c)(1)(i). An election can be effective on the date specified on the Form 8832 or on the date filed if no such date is specified. The effective date specified on the Form 8832 cannot be more than 75 days prior to the date the election is filed. Section 301.7701-3(c)(2)(iii).

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in § 301.9100-3 to make a regulatory election. Section 301.9100-1(b) defines a regulatory election to include an election whose due date is prescribed by a regulation published in the Federal Register.

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 submitted and representations made, we conclude that X has satisfied the requirements of § 301.9100-3. As a result, X is granted an extension of time to elect to be classified as a partnership for federal tax purposes. The election filed on D4 is deemed timely filed to be effective D2.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code.

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

Pursuant to the power of attorney on file with this office, copies of this ruling are being sent to your authorized representatives.

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

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