

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

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CC:PSI:3 PLR-114985-00

Date:

September 20, 2000

LEGEND:

A =

B =

Country =

State =

Date 1 =

Dear

This letter responds to a letter dated July 28, 2000, and subsequent correspondence submitted on behalf of A, requesting that A be given an extension of time under § 301.9100-3(a) of the Procedure and Administration Regulations to elect to be disregarded as an entity separate from its owner for federal tax purposes under § 301.7701-3(c) effective Date 1.

FACTS

A is a limited company formed under the law of Country on Date 1. B, a State limited liability company, is the sole owner of A. It is represented that B has no personal liability for the debts of or claims against A. A and B had intended A to elect to be disregarded as entity separate from its owner under § 301.7701-3(c) effective Date 1. However, due to a miscommunication with their accountants, A did not make the election.

LAW AND ANALYSIS

Section 301.7701-3(a) 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. An eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(b)(2)(i)(B) provides that, unless the entity elects otherwise, a foreign eligible entity is an association if all members have limited liability.

Under § 301.7701-3(c)(1)(i), an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832, Entity Classification Election with the service center. To be valid, an election must generally be signed by each member of the electing entity, or any officer, manager, or member of the electing entity who is authorized (under local law or the entity's organizational documents) to make the election and who represents to having such authorization under penalties of perjury. See § 301.7701-3(c)(2)(i). The effective date specified on Form 8832 cannot be more than 75 days prior nor more than 12 months after the date on which the election is filed. § 301.7701-3(c)(1)(iii).

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 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. § 301.9100-3(a).

CONCLUSIONS

In the present situation, the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, B is granted an extension of time to make the election to have A treated as disregarded as an entity separate from its owner for federal tax purposes, effective Date 1, until 60 days following the date of this letter. The election should be made by following the procedure set forth in Form 8832 and a copy of this letter should be attached to the election.

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.

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 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 is being forwarded to your authorized representatives.

Sincerely yours,

/S/

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

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