

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:  
CC:PSI:2-PLR-135855-02  
Date:  
September 30, 2002

Legend

X =

Date 1 =

Country =

Dear :

This letter responds to a letter dated May 20, 2002, submitted on behalf of X, requesting a ruling that X be granted an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c) to be treated as a partnership for federal tax purposes.

FACTS

According to the information submitted, X was formed in Country on Date 1. X represents that it is an entity that is eligible to elect to be treated as a partnership for federal tax purposes under § 301.7701-3(c). All members of X have limited liability within the meaning of § 301.7701-3(b)(2)(ii). X intended at all times to be treated as a partnership. However, due to inadvertence, X failed to timely file Form 8832, Entity Classification Election.

LAW AND ANALYSIS

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association if all members have limited liability, unless the entity makes an

PLR-135855-02

election to be treated otherwise. To make an election, § 301.7701-3(c) provides that an entity classification election must be filed on Form 8832. An election can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date on which the form 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 Internal Revenue Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose deadline is prescribed by a regulation 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 301.9100-1(a).

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).

## CONCLUSION

Based on the information submitted and representations made, X has established that the requirements of §§ 301.9100-1 and 301.9100-3 are satisfied. Consequently, X is granted an extension of 60 days from the date of this letter to make an election under §301.7701-3 to be treated as a partnership effective Date 1. X must file Form 8832 within the extension period with the appropriate service center, with a copy of this letter attached.

Except for the specific ruling above, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Code. Section 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

PLR-135855-02

This ruling is directed only to the taxpayer on whose behalf it was requested. According to § 6110(k)(3) of the Internal Revenue Code, this ruling may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office, a copy of this letter is being sent to X's authorized representatives.

Sincerely,

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

Enclosures:

Copy of this letter

Copy for 6110 purposes