

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:Br.1-PLR-112224-03

Date:

June 27 2003

Legend:

X =

D1 =

State =

Dear _____ :

This letter responds to your representative's letter dated February 14, 2003, submitted on behalf of X requesting an extension of time 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 with a single owner. X intended to elect to be treated as an association taxable as a corporation effective D1. However, X failed to timely file the Form 8832, Entity Classification Election.

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 a single owner may elect to be classified as an association (and thus a corporation under section 301.7701-2(b)(2)) or to be disregarded as an entity separate from its owner (a disregarded entity).

Section 301.7701-3(b)(1)(ii) provides that except as provided in section 301.7701-3(b)(3), unless the entity elects otherwise, a domestic eligible entity is disregarded as an entity separate from its owner if it has a single owner.

PLR-112224-03

Section 301.7701-3(c)(1)(i) provides in general that an eligible entity may elect to be classified other than as provided under section 301.7701-3(b) by filing Form 8832 with the applicable service center. Section 301.7701-3(c)(1)(iii) provides that such an election becomes effective on the date specified by the entity on Form 8832 or on the date filed if no effective date is specified. The effective date specified on Form 8832 can not be more than 75 days prior to the date on which the election is filed and can not be more than 12 months after the date on which the election is filed.

Under section 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.

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 section 301.9100-2.

Requests for relief under section 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 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 for making the election to be treated as an association taxable as a corporation for federal tax purposes, effective D1, until 60 days following the date of this letter. X should make the election by filing Form 8832 with the Philadelphia Service Center. A copy of this letter should be attached to that Form. A copy is included for that purpose.

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 Code provides that it may not be used or cited as precedent.

PLR-112224-03

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

/s/ Heather C. Maloy

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

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes

cc: