

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200423019**

Release Date: 6/4/04

Index Number: 9100.00-00, 7701.00-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B1 – PLR-160921-03

Date:

Feb 23 2004

Legend

X =

X1 =

X2 =

X3 =

N1 =

N2 =

D1 =

Country =

Dear _____ :

This responds to your letter dated, October 10, 2003, in which you requested relief 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

X is the beneficiary of X1. X1 and X2 are Country trusts. X1 owns N1 percent of X2. X3, a Country entity owned by a Country citizen, holds the remaining N2 percent of

X2. X2 began conducting business on D1. X2 inadvertently failed to file a timely election to be treated as a partnership for federal tax purposes under § 301.7701-3(c).

Law and Analysis

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Under § 301.7701-3(b) a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise. Section 301.7701-3(c) provides that an entity classification election must be filed on Form 8832 and 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 Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including an election with a deadline 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 an election. § 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. § 301.9100-3(a).

Conclusion

Based solely on the facts submitted and the representations made, the requirements of § 301.9100-3 have been satisfied. As a result, X2 is granted an extension of time of sixty (60) days from the date of this letter to elect to be treated as a partnership for federal tax purposes, effective as of D1. The election should be made by filing a properly executed Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

Except as expressly set forth above, no opinion is expressed or implied concerning the tax consequences of the transactions described above under any other

provision of the Internal Revenue Code. Specifically, no opinion is expressed concerning whether X2 is an eligible entity.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

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

Sincerely,

/s/ Heather C Maloy

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

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

cc: