

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B01

PLR-129900-05

Date:

October 21, 2005

Legend

X =

Y =

Z =

Country =

D1 =

D2 =

D3 =

D4 =

D5 =

Dear

This is in response to a letter dated May 31, 2005, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election to be initially disregarded as an entity separate from its owner for federal tax purposes under § 301.7701-3(c), effective D4.

FACTS

Based upon the information submitted and representations made within your request, X, Y and Z are Country entities who were formed in D1, D2, and D3, respectively. On D4, Y contributed all of its assets to X. It is represented that at all times it was intended that a Form 8832, *Entity Classification Election*, would be filed on behalf of X so that X would be classified as an entity disregarded as separate from its owner. Due to a misunderstanding as to who had the responsibility to file the election on behalf of X, a Form 8832 was inadvertently not filed. On D5, Z contributed all of its assets to X. Thus, if the intended election had been filed, X would now be a partnership for federal tax purposes.

## LAW AND ANALYSIS

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, unless the entity makes an election to be treated otherwise, a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability. If a foreign eligible entity has only one owner, it may elect to be treated as a disregarded entity pursuant to the rules in § 301.7701-3(c). If a foreign eligible entity has more than one owner, it may elect to be treated as a partnership pursuant to the rules in § 301.7701-3(c).

Section 301.7701-3(c) further provides that an entity classification election must be filed on Form 8832, *Entity Classification Election*, 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.

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 solely on the facts submitted and representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of sixty (60) days from the date of this letter to elect to be disregarded as an entity separate from its owner for federal tax purposes, effective D4. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

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(s) 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 will be sent to your authorized representatives.

Sincerely,

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

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