

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B01-PLR-112515-00

Date:

August 10, 2000

Legend

X =

Country =

P1 =

P2 =

D1 =

D2 =

This responds to your letter dated June 19, 2000 requesting on behalf of X, an extension under § 301.9100-3(c) of the Procedure and Administration Regulations, to file an election under § 301.701-3(c) to be classified as a partnership for federal tax purposes.

Facts

X was organized under the laws of a foreign country on D1. On D2, X was acquired by P1 and P2, limited liability companies organized under the laws of Country. X intended to be treated as a partnership for U.S. federal tax purposes, effective D2, but the entity classification election was not timely filed. X requests a ruling granting it an extension of time in which to file the entity classification election so that it will be treated as a partnership as of D2.

Law and Analysis

Treas. Reg. § 301-7701-3(a) allows 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) to elect its classification for federal tax purposes as provided in the remainder of that section. An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-(b)(2)) or a partnership.

Treas. Reg. § 301.7701-3(b) provides default classifications for eligible entities that do not make an election under this section. Under § 301.7701-3(b)(2) a foreign eligible entity, unless the entity elects otherwise, is:

- (A) A partnership if it has two or more members and at least one member does not have limited liability; or
- (B) An association if all members have limited liability; or
- (C) Disregarded as an entity separate from its owner if it has a single owner that does not have limited liability.

Treas. Reg. § 301.7701-3(c)(1)(C)(iii) states, in part, that the effective date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed and cannot be more than 12 months after the date on which the election is filed.

Treas. Reg. § 301.9100-1(c) allows the Commissioner to grant a reasonable extension of time in which to file the entity classification election under the rules set forth in §§ 301.9100-2 and 301.9100-3. Section 301.100-1(b) defines a regulatory election as an election having a due date prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice or announcement published in the Internal Revenue Bulletin.

Treas. Reg. § 301.9100-3(a) provides relief where the taxpayer provides evidence (including affidavits described in paragraph (e) of this section) establishing to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Conclusion

Based solely on the facts submitted and the representations made, we conclude that X has satisfied the requirements of §§ 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 a partnership for federal tax purposes, effective D1. Within 60 days of receiving this letter X should make the election by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the form.

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 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/Paul F. Kugler
Associate Chief Counsel
(Passthroughs and Special Industries)

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

cc: