

INTERNAL REVENUE SERVICE

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October 5, 2001

X =
Y =
Member B =
State =

Dear

This is in reply to a recent letter, submitted by X's authorized representative on behalf of X, requesting a ruling that Y will be treated as a disregarded entity for federal tax purposes.

The information submitted states that Y is a State limited liability company (LLC). The State LLC act provides that limited liability company and "domestic limited liability company" means a limited liability company formed under the laws of State and having 1 or more members. X, a corporate entity, has 100% of the economic interest in Y. X has a 100% share of the profits and losses of Y and a 100% share of whatever would be distributed in liquidation of Y. The other member of Y, Member B, will not share in the profits and losses of Y or receive anything in liquidation of Y.

Under the LLC agreement (the Agreement) for Y, Member B's only rights are to help prevent the bankruptcy of Y by requiring Member B's approval in order for Y to (i) file for bankruptcy, (ii) dissolve or liquidate, (iii) amend the certificate of formation for Y, (iv) engage in a business other than specified in Y's certificate of formation, or (v) enter into a credit facility or borrowing outside the ordinary course of its business or other than contemplated upon its formation.

Section 301.7701-2(a) of the Procedure and Administration Regulations provides that business entities are entities recognized for federal tax purposes but not properly classified as trusts under § 301.7701-4 or otherwise subject to special treatment under the code. A business entity with two or more members is classified for federal tax purposes as either a partnership or a corporation. Section 301.7701-3(a) provides that 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") can elect its classification for federal tax purposes. An eligible entity with a single owner can elect to be classified as either an association (and thus a corporation under

§ 301.7701-2(b)(2)) or to be disregarded as an entity separate from its owner. Under § 301.7701-3(b)(1)(ii), a domestic eligible entity with a single owner is disregarded as an entity separate from its owner unless it elects to be treated as a corporation under § 301.7701-3(c).

Since Y is a domestic eligible entity and you have represented that it will not file an election to be treated as a corporation, its federal tax classification depends upon whether Y has one member or more than one member.

In this case Member B is a member of Y for the sole limited purpose of preventing X from placing Y into bankruptcy on its own volition. Member B has no interest in Y capital, profits or losses and neither manages the enterprise nor has any management rights other than those limited rights described above. Thus, for federal tax purposes Member B will not be treated as a member of Y. Accordingly, X is the sole member of Y. Because X is the sole owner of Y and Y will not elect to be treated as a corporation for federal tax purposes, Y will be disregarded as an entity separate from X.

Based solely on the facts submitted and representations made, we conclude that provided that Y does not file an election to be treated as a corporation for federal tax purposes under §301.7701-3(c), Y will be disregarded as an entity separate from X. Furthermore, based on the facts and circumstances set forth in the ruling request dated February 26, 2001 (PLR-113383-01) LLC's assets and activities will be attributed to X, for purposes of determining whether X qualifies as an Exchange Accommodation Titleholder under Rev. Proc. 2000-37.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code.

This ruling is directed only to the taxpayers who requested it. Section 6110(k)(3) provides that it 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 representative.

Sincerely,
J. THOMAS HINES
Chief, Branch 2
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes