

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:  
CC:PSI:3 PLR-145126-02

Date:  
February 11, 2003

Legend

Company =

Owners =

Foreign Country =

Date 1 =

Date 2 =

Dear :

This letter responds to a letter dated August 7, 2002, and subsequent correspondence, requesting a ruling under § 301.9100-3(a) of the Procedure and Administration Regulations to file an election for Company to be treated as a partnership for federal tax purposes.

Facts

According to the information submitted, Company was formed in Foreign Country on Date 1. Company is owned by Owners, who are all considered to have limited liability under the laws of Foreign Country, and Company is considered to be an entity

under the laws of Foreign Country. At all times after the formation of Company, Owners intended Company to be treated as a partnership for federal tax purposes.

In Date 2, it was discovered that a Form 8832, Entity Classification Election, inadvertently had not been filed.

### Law and Application

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. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(2)(i)(B) provides that, unless the entity elects otherwise, a foreign eligible entity is classified as an association if all its members have limited liability.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing a Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The date specified on Form 8832 cannot 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 § 301.9100-1(c), the Commissioner has discretion to 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.

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.

Section 301.9100-3(a) provides that requests for relief will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the government.

Conclusion

Based solely on the facts and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Company is granted an extension of time of 60 days from the date of this letter to file a Form 8832 with the appropriate service center with an effective date of Date 1. A copy of this letter should be attached to the election and is enclosed for this purpose.

Except for the specific ruling above, no opinion is expressed or implied concerning the federal income tax consequences of the facts of this case under any other provision of the Internal Revenue Code.

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

Under a power of attorney on file with this office, we are sending the original of this letter to you and a copy to Company.

Sincerely,

/s/

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

Enclosures (2):

Copy of this letter  
Copy for § 6110 purposes