

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:  
CC:PSI:B03-PLR-100984-03  
Date:  
July 1, 2003

LEGEND:

Owner =

Company =

Date1 =

Date2 =

Country =

Dear :

This letter responds to a letter dated December 18, 2002, submitted on behalf of Owner, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for Owner to elect to treat Company as an entity that is disregarded from Owner under § 301.7701-3.

FACTS

According to the information submitted, Owner, a citizen of Country, formed Company as a company with limited liability on Date1 in Country. On the advice of tax professionals, Owner decided to elect to treat Company as an entity disregarded from its owner for federal tax purposes effective Date2.

Owner understood that the Form 8832, Entity Classification Election, would be prepared and filed by the tax professionals. However, due to inadvertence, the election required under §§ 301.7701-3(a) was not filed.

### LAW AND ANALYSIS

Section 301.7701-3(a) provides, in part, 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 an association or to be disregarded as an entity separate from its owner.

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

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided under §§ 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the applicable service center.

Section 301.7701-3(c)(1)(iii) provides, in part, that an election made under §§ 301.7701-3(c)(1)(i) 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 effective date specified on Form 8832 can not 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 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 a regulatory election as an election with a due date prescribed by a regulation published in the Federal Register.

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 extension(s) 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.

### CONCLUSIONS

Based solely on the facts submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, Owner is granted an extension of time of 60 days from the date of this letter to

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make an election to treat Company as a disregarded entity for federal tax purposes effective Date2. Owner should make the election by filing a properly executed Form 8832 and attaching a copy of this letter to the election. A copy is enclosed for that purpose.

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.

Pursuant to a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely yours,

/s/

Heather Maloy  
Associate Chief Counsel  
(Passthroughs and Special  
Industries)

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