

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-130037-03
Date:
July 28, 2003

Legend

Taxpayer =

Owner =

State =

Foreign Country =

Date 1 =

Dear :

This letter responds to a letter dated May 1, 2003, and subsequent correspondence, submitted on behalf of Taxpayer, requesting a ruling under § 301.9100-3(a) of the Procedure and Administration Regulations granting an extension of time allowing Taxpayer to file an election effective Date 1 to be treated as a disregarded entity for federal tax purposes.

Facts

According to the information submitted, Taxpayer is a limited liability entity formed under the laws of Foreign Country.

Taxpayer filed a Form 8832, Entity Classification Election, electing to be treated as a disregarded entity. Later, at a date that was more than 75 days after Date 1, it was discovered that the Form 8832 was improperly filed.

Law and Application

Section 301.7701-2(a) provides that a business entity is any entity recognized for federal tax purposes that is not properly classified as a trust under § 301.7701-4 or otherwise subject to special treatment under the Internal Revenue Code.

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) may elect its classification for federal tax purposes. An eligible entity with a single owner may be classified as either an association taxable as a corporation or as a disregarded entity. Section 301.7701-3(b)(2) provides the default status for a foreign eligible entity that does not file an election. Section 301.7701-3(b)(2)(i)(B) provides that, unless the foreign eligible entity elects otherwise, the entity is classified as an association if all members have limited liability. Consequently, in the absence of a valid election, Taxpayer is classified as an association under the rules of this section.

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 service center designated on the form.

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 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 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.

Section 301.7701-3(g)(1)(iii) provides that if an eligible entity classified as an association elects under § 301.7701-3(c)(1)(i) to be disregarded as an entity separate from its owner, the following is deemed to occur: The association distributes all of its assets and liabilities to its single owner in liquidation of the association.

Section 301.7701-3(c)(2)(iii) provides that, for purposes of § 301.7701-3(c)(2)(i), if an election under § 301.7701-3(c)(1)(i) is made to change the classification of an entity, each person who was an owner on the date that any transactions under § 301.7701-3(g) are deemed to occur, and who is not an owner at the time the election is filed, must also sign the election.

Section 301.9100-1(c) permits the Commissioner to grant a reasonable extension of time for making certain elections. Section 301.9100-3 provides that an extension of time to file certain elections will be granted if the taxpayer is able to establish that it 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, Taxpayer is granted an extension of time of 60 days from the date of this letter to file Form 8832, effective on Date 1, with the Philadelphia Service Center. A copy of this letter should be attached to the election. A copy 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) of the Code provides that it may not be used or cited as precedent.

Sincerely,

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

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

cc: