

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:2 - PLR-104610-03
Date:
September 26, 2003

A =

X =

Y =

d1 =

Country =

Dear :

This responds to a letter dated November 14, 2002, and subsequent correspondence, submitted on behalf of X, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to make an entity classification election under § 301.7701-3.

The information submitted states that X is a Country limited liability partnership, owned by A, an individual, and Y. X was formed under the laws of Country on d1. A, as the general and managing member of X, represents that, pursuant to § 301.7701-3(a), X is a foreign eligible entity that is not required to be classified as a corporation for federal tax purposes. A represents that X was intended to be treated as an entity other than its default classification under 301.7701-3(b)(2) effective d1. However, inadvertently no timely Form 8832, Entity Classification Election, was filed for X.

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 as provided in § 301.7701-3.

Section 301.7701-3(b)(2) provides, in general, that except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a foreign eligible entity is (A) a partnership if it has two or more members and at least one member does not have

PLR-104610-03

limited liability; (B) an association if all members have limited liability; or (C) disregarded as an entity separate from its owner if it has a single member that does not have limited liability.

Section 301.7701-3(c)(1)(i) provides that to elect to be classified other than as provided in § 301.7701-3(b), an eligible entity must file Form 8832 with the designated service center.

Section 301.7701-3(c)(1)(iii) provides, in part, that an election under § 301.7701-3(c)(1)(i) (to elect or change entity classification) 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 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.

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 E, G, H, and I. 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. Section 301.9100-3(a). Section 301.9100-1(b) defines a regulatory election to include an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

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.

Based on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied, and that permission to make an entity classification election under § 301.7701-3(c)(1)(i) should be granted. As a result, X is granted an extension of time for 60 days from the date of this letter to file an entity classification election effective on d1. A copy of this letter should be attached to the Form 8832. A copy is included for that purpose.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the proposed transaction. In particular, no opinion is expressed or implied concerning the validity of any entity classification election by X.

PLR-104610-03

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, copies of this letter are being forwarded to X's authorized representatives.

Sincerely,

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

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