

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200418042**

Release Date: 4/30/04

Index Number: 9100.00-00

Person To Contact:

, #

Telephone Number:

Refer Reply To:

CC:PSI:3 – PLR-167720-03

Date:

January 21, 2004

Legend

Parent =

Subsidiary =

Foreign Country =

Date 1 =

Date 2 =

Year 1 =

Dear :

This letter responds to a letter dated September 12, 2003, and subsequent correspondence, requesting a ruling under § 301.9100-3(a) of the Procedure and Administration Regulations to file an election for Subsidiary to be treated as a disregarded entity for federal tax purposes.

Facts

According to the information submitted, Parent, an S corporation, is the only member of Subsidiary. Subsidiary was formed in Foreign Country on Date 1. Subsidiary is considered to be an entity under the laws of Foreign Country. At all times

PLR-167720-03

after the formation of Subsidiary, Parent intended Subsidiary to be treated as a disregarded entity for federal tax purposes.

On or about Date 2, a date more than 75 days after Subsidiary was formed, during the preparation of Parent's tax returns for Year 1, it was discovered that a Form 8832, Entity Classification Election, inadvertently had not been filed.

Law and Application

Section 301.7701-2(a) generally 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) further provides that a business entity with only one owner is classified as a corporation or is disregarded. If it is disregarded, then the entity's activities are treated in the same manner as a sole proprietorship, branch, or division of the owner.

Section 301.7701-3(a) provides that so long as a business entity is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8), it may elect its classification for federal tax purposes. Section 301.7701-3(b)(2)(i) provides that, 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 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 owner that does not have limited liability.

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, Subsidiary is granted an extension of time of 60 days from the date of this letter to file Form 8832 with the Philadelphia Internal Revenue 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.

PLR-167720-03

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 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, a copy of this letter is being sent to your requested tax representatives.

Sincerely,

/s/

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

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes