

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact: _____, ID No.

Telephone Number: _____

Refer Reply To:
CC:PSI:B02 – PLR-145925-03

Date:
April 16, 2003

LLC =

d1 =

d2 =

State =

Dear _____ :

This is in response to your letter dated August 1, 2003, and subsequent correspondence, submitted on behalf of LLC as LLC's authorized representative, requesting an extension of time for LLC to elect under § 301.7701-3(c) of the Procedure and Administration Regulations to be treated as an association taxable as a corporation.

The information submitted states that LLC was organized on d1 as a domestic limited liability company under the laws of State. The owner of LLC intended to elect for LLC be treated as an association taxable as a corporation effective d2. However, no Form 8832, Entity Classification Election, was filed for LLC.

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. 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 301.7701-2(a). An eligible entity with at least two members can elect to either be classified as an association (and thus a corporation under § 301.7701-2(b)(2)) or a partnership.

Section 301.7701-3(b)(1)(i) provides that, unless it elects otherwise, a domestic eligible entity with two or more members will be classified as a partnership.

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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 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 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.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as 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 the election.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

Based on the information submitted and the representations made, we conclude that the requirements of § 301.9100-3 have been satisfied. As a result, LLC is granted an extension of time for 60 days from the date of this letter to file a Form 8832 with the appropriate service center electing under § 301.7701-3(c) to be classified as an association taxable as a corporation for federal tax purposes effective d2. A copy of this letter should be attached to the Form 8832.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code.

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This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) 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 LLC.

Sincerely,

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

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