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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:B01 – PLR-112246-04

Date:
July 22, 2004

Legend

X =

Country =

Entity =

Date =

Dear _____ :

This letter responds to a letter dated January 21, 2004, written on behalf of X requesting a ruling that X be granted an extension of time under §301.9100-3 of the Procedure and Administration Regulations to file an election under §301.7701-3(c) to be treated as a partnership for federal tax purposes.

FACTS

According to the information submitted, X is a Country Entity. X intended to elect to be treated as a partnership for federal tax purposes effective Date, however, the Form 8832, Entity Classification Election, inadvertently was not timely filed. X represents that it is an entity that is eligible to elect, under §301.7701-3(c), to be a partnership for federal income tax purposes.

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 as provided in §301.7701-3.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise. If a foreign eligible entity has one owner, it may elect to be treated as a disregarded entity pursuant to the rules in §301.7701-3(c). If a foreign eligible entity has more than one owner, it may elect to be treated as a partnership pursuant to the rules in §301.7701-3(c). Section 301.7701-3(c) provides that an entity classification election must be filed on Form 8832 and can be effective up to 75 days prior to the date the form is filed or up to 12 months after the date on which the form 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 the term "regulatory election" as including an election whose deadline is prescribed by a regulation 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 301.9100-1(a).

Section 301.9100-2 provides automatic extension 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. Section 301.9100-3(a).

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that the requirements of §301.9100-3 have been satisfied. As a result, X is granted an extension of time of 60 days from the date of this letter to file Form 8832 with the appropriate service center and elect to be treated as a partnership for federal tax purposes, effective Date. To be valid, the election must contain any consents required under §301.7701-3(c)(2)(ii) and (iii). Further, a copy of this letter should be attached to the election.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the code.

This ruling is directed only to the taxpayer on whose behalf it was requested. 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 authorized representative.

Sincerely,

/s/ Heather C. Maloy

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

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

cc: