

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:B03 – PLR-137255-03

Date:

June 23, 2004

Legend

Company =

Company2 =

Date =

State =

Dear :

This letter responds to a letter dated May 27, 2003, submitted by Company, requesting an extension of time under §301.9100-3 of the Procedure and Administration Regulations to file an election to be treated as an association taxable as a corporation for federal tax purposes under §301.7701-3(c), effective Date.

Facts

According to the information submitted, Company was organized under the laws of State on Date. Company was formed to serve as the successor in interest to Company2, in connection with a transaction, the purpose of which was the conversion of Company2 into a limited liability company, for State law purposes.

Following its formation, Company intended that it be treated as a association taxable as a corporation for federal tax purposes. However, Company's legal and tax representatives inadvertently failed to timely file the required Form 8832, Entity Classification Election. Company became aware of the failure to file the Form 8832 prior to any contact by the IRS.

Law

Section 301.7701-3(a) provides, in part, that a business entity that is not classified as a corporation under section 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes. Under §301.7701-2(c)(1), an entity with more than one owner can be classified as an association taxable as a corporation or as a partnership for federal tax purposes.

Section 301.7701-3(b)(2)(i) states that unless it elects otherwise, a domestic eligible entity with more than one owner will be classified a partnership and a domestic eligible entity with one owner will be disregarded as an entity separate from its owner. Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided under section 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the applicable service center.

Section 301.7701-3(c)(1)(iii) provides, in part, that an election made under section 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 can not 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.

Under section 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 an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or an announcement published in the Internal Revenue Bulletin.

Sections 301.9100-1 and 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 section 301.9100-2.

Requests for relief under section 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).

CONCLUSIONS

Based solely on the facts and representations submitted, we conclude that the requirements of sections 301.9100-1 and 301.9100-3 have been satisfied. Accordingly,

Company is granted an extension of time to file Form 8832 with the appropriate service center to elect to be treated as an association taxable as a corporation, effective Date, until 60 days following the date of this letter. The election should be made by following the procedures set forth in Form 8832, and a copy of this letter should be attached to the election. A copy is enclosed for that purpose.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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.

In accordance with the 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
Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure (1)