

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200449030**

Release Date: 12/3/04

Index Number: 7701.00-00, 9100.00-00

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01 – PLR-151092-03

Date:
Aug 4 2004

Legend:

X =

Y =

State =

Country =

D1 =

D2 =

Dear :

This letter responds to the letter dated August 25, 2003, and related correspondence, written on behalf of X, requesting an extension of time, pursuant to

§ 301.9100-3 of the Procedure and Administration Regulations, to file Form 8832, Entity Classification Election, to elect to treat Y as an association taxable as a corporation for federal tax purposes.

FACTS

The information submitted discloses that X, a State corporation, is engaged in business activities in Country. To take advantage of certain regulatory changes in Country, the management of X decided to reorganize one of its subsidiaries in Country. For that purpose, Y was formed under the laws of Country on D1 as a subsidiary of X.

Although Y is treated as a partnership for federal tax purposes under the default rules of the Check-the-Box Regulations, the management of X intended that Y be classified as an association taxable as a corporation for federal tax purposes, effective D2. The election, however, inadvertently was not filed.

LAW AND ANALYSIS

Section 301.7701-3(a) provides that a business entity 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.

Section 301.7701-3(b)(2)(i)(A) provides that, generally, except as provided in paragraph (b)(3) of this section, unless an entity elects otherwise, a foreign eligible entity is classified as a partnership if it has two or more members and at least one member does not have limited liability.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to 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. 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 301.9100-2 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 § 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.

CONCLUSION

Based solely on the facts submitted and 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, on behalf of Y, Form 8832, to elect to treat Y as an association taxable as a corporation, effective D2. The election should be filed with the appropriate service center. A copy of this letter should be attached to the election. A copy of this letter is attached for this purpose.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we do not express an opinion concerning whether Y or any entity described in the facts is a valid corporation for federal tax purposes.

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.

In accordance with the Power of Attorney on file with this office, copies of this letter is being faxed and mailed to X's authorized representatives.

Sincerely,

/s/

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

Enclosures (2)

Copy of this letter
Copy for § 6110 purposes

cc: