

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:1

PLR-133822-04

Date:

December 02, 2004

Legend

LLC =

D1 =

State =

Dear :

This responds to a letter dated June 14, 2004, together with subsequent correspondence, submitted on behalf of LLC requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election to treat LLC as an association taxable as a corporation for federal tax purposes.

FACTS

According to the information submitted, LLC was formed on D1 under State law. LLC relied on its accountant to provide LLC with tax advice. LLC's accountant inadvertently failed to inform LLC of the advisability of making an election to be treated as an association taxable as a corporation effective D1. Consequently, LLC did not file Form 8832, Entity Classification Election, to be classified as an association taxable as a corporation for federal tax purposes.

LAW AND ANALYSIS

Section 301.7701-3(b)(1) provides guidance on the classification of a domestic eligible entity for federal tax purposes. Generally, a domestic eligible entity will be a partnership if it has two or more members, unless it elects otherwise. A domestic eligible entity with one owner will generally be disregarded as an entity separate from its owner unless it elects otherwise.

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 with the service center designated on Form 8832.

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 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 § 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 deadline 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 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 interest of the government.

CONCLUSION

Based on the information submitted and the representations made, we conclude that the requirements of § § 301.9100-1 and 301.9100-3 have been satisfied. As a result, LLC is granted an extension of time of sixty (60) days following the date of this letter to file Form 8832 and elect to be classified as an association taxable as a corporation for federal tax purposes, effective D1. A copy of this letter should be attached to the Form 8832.

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 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, a copy of this letter is being sent to your authorized representative.

Sincerely,

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

Enclosures (2)

Copy of this letter
Copy for section 6110 purposes
Original Form 8832