

**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-145877-04

Date:

February 10, 2005

Legend

X = TIN:

Y = TIN:

Z = TIN:

Date 1 =

Territory =

State 1 =

State 2 =

Dear :

This letter responds to your letter dated August 23, 2004, and subsequent correspondence, submitted on behalf of X, requesting a time extension under section § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c).

Facts

The information submitted states that Y, a State 1 corporation, owns all outstanding shares of Z, a State 2 corporation. Y and Z are members of a U.S.

PLR-145877-04

consolidated group of corporations for purposes of § 1501. On Date 1, Y established a wholly owned entity, X, under the laws of Territory, and Y then transferred all the outstanding shares of X to Z. X, Y, and Z intended that X elect to be treated as a disregarded entity from the date of its formation, Date 1. However, X inadvertently failed to file the Form 8832, Entity Classification Election, effective on Date 1.

### 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 this section. An eligible entity with a single owner can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)(2)) or a disregarded entity. Unless it elects otherwise, a foreign eligible entity is an association if all of its members have limited liability. 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 Internal Revenue Code, except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including 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 an election. Section 301.9100-1(a).

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. Section 301.9100-3(a).

PLR-145877-04

Conclusion

Based solely on the information submitted, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, X is granted an extension of 60 days from the date of this letter to make an election under § 301.7701-3(c) to be treated as disregarded entities for federal tax purposes effective on Date 1. The entity classification election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to each Form 8832. 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(s) requesting it. 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 X's authorized representative.

Sincerely,

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

Enclosure (2)  
Copy of this letter  
Copy for § 6110 purposes