

Dear :

This letter responds to your letter, dated December 15, 2006, on behalf of X, seeking an extension of time under section 301.9100-3 of the Procedure and Administration Regulations to file an election under section 301.7701-3 to be treated as a partnership for federal tax purposes.

Facts

Based solely on the materials submitted and the representations made within, we understand the relevant facts to be as follows. X was organized in accordance with the laws of State on Date 1 as a limited liability company. X filed a timely election to be treated as an S corporation, effective Date 1. Upon formation, A, B, and C were the sole owners of X. On Date 2, A, B, and C each transferred their shares in X to Trust 1, Trust 2, and Trust 3, respectively. Trust 1, Trust 2, and Trust 3 (the Sellers) are all grantor trusts for federal tax purposes. On Date 4, Y acquired all of the interests in X. At the time of acquisition, Y mistakenly believed that X was classified as a partnership for federal tax purposes. The Sellers did not realize that Y's desired tax treatment depended on the Sellers making an election under section 301.7701-3. X requests permission to file an election effective Date 3. X represents that the granting of an extension to file a new election will not result in any taxpayer having a lower federal tax liability in the aggregate for all taxable years affected by the election, and that the interests of the government will not be prejudiced by the granting of the requested extension of time to file a new election.

Law and Analysis

Section 301.7701-3(a) provides 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. A "business entity" is an entity recognized for federal tax purposes that is not properly classified as a trust under section 301.7701-4 or otherwise subject to special treatment under the Code. Section 7701-2(a). An eligible entity with at least two members can elect to either be classified as an association (and thus a corporation under section 301.7701-2(b)(2)) or as a partnership.

Section 301.7701-3(c)(1)(v)(C) provides that an eligible entity that elects to be an S corporation under section 1362(a)(1) is treated as having made an election under this section to be classified as an association, provided that (as of the effective date of the election under section 1362(a)(1)) the entity meets all other requirements to qualify as a small business corporation under section 1361(b). Subject to section 301.7701-

3(c)(1)(iv), the deemed election to be classified as an association will apply as of the effective date of the S corporation election and will remain in effect until the entity makes a valid election, under section 301.7701-3(c)(1)(i), to be classified as other than an association.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in section 301.9100-3 to make a regulatory election. Section 301.9100-1(b) defines a regulatory election as an election with a due date 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 a regulatory 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 section 301.9100-2.

Conclusion

Based solely on the facts as represented in the materials submitted in connection with this ruling request, we conclude that X has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time of 60 days following the date of this letter for making the election to be treated as a partnership for federal tax purposes, effective Date 3. A copy of this letter should be attached to the Form 8832, Entity Classification Election. A copy is enclosed for that purpose.

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

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with the office, a copy of this letter will be sent to the taxpayer's authorized representative.

Sincerely,

William P. O'Shea
Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy of this letter for section 6110 purposes