



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

August 19, 2009

OFFICE OF
CHIEF COUNSEL

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CC:PSI:B02
GENIN-143585-08

UIL: 7701.02-00

Taxpayer =

Dear :

This letter responds to your request for information dated September 19, 2008, in which it was requested that we recognize the Taxpayer's entity classification election to be a corporation effective beginning . This office has attempted to call you to discuss the procedural requirements for seeking a private letter ruling on November 3, 2008, January 9, 2009, May 22, 2009, and August 14, 2009. To date, we have not had the opportunity to speak with you via telephone.

According to your letter, the Form 8832, Entity Classification Election, that was filed on behalf of the Taxpayer specified an effective date of . You further indicate in your letter that the Taxpayer intended the effective date to be

. It appears from the facts as stated in your letter that the Taxpayer does not qualify for relief under Rev. Proc. 2002-59, 2002-39 I.R.B. 615, because the Form 8832 was not filed (pursuant to Rev. Proc. 2002-59) before the due date of the Federal tax return, excluding extensions, for the tax year ending .

Generally, to request relief for a late entity classification election that does not meet the requirements of Rev. Proc. 2002-59, the Taxpayer must request a private letter ruling from the National Office. The procedures for requesting a private letter ruling are set out in Revenue Procedure 2009-1 (copy enclosed). In addition, Rev. Proc. 2009-1 requires taxpayers to submit a user fee along with their ruling request. The standard user fee for a private letter ruling is \$11,500. However, taxpayers with gross income of more than \$250,000 but less than \$1 million on their tax return for the most recent 12-month taxable year qualify for a reduced user fee in the amount of \$2,100 and taxpayers with gross income of less than \$250,000 on their tax return for the most recent 12-month taxable year qualify for a reduced user fee in the amount of \$625. If you qualify for the reduced fee, you must include a statement certifying your gross income for the last 12-month taxable year. Otherwise, the higher fee will apply.

If the Taxpayer decides to submit a formal request for a private letter ruling, please review Appendix B of Rev. Proc. 2009-1 and be certain to include all required procedural statements. Also include the proper user fee and any documents that substantiate the Taxpayer's intent to be treated as a corporation from the requested effective date. Please refer your request to our office by adding the following to the address:

Attn: CC:PA:T
P.O. Box 7604
Ben Franklin Station
Washington, DC 20054
Direct to: CC:PSI:2
Room 5011

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2009-1, §2.04, 2009-1 IRB 7 (Jan. 5, 2009). If you have any additional questions, or if you would like to discuss to requirements for seeking a private letter ruling, please contact our office at

Sincerely,

Melissa C. Liquerman
Chief, Branch 2
(Passthroughs & Special Industries)

Enclosures (2):
Rev. Proc. 2002-59
Rev. Proc. 2009-1