

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Telephone Number: \_\_\_\_\_, ID No. \_\_\_\_\_

Refer Reply To:  
CC:PSI:1  
PLR-126191-09  
Date:  
November 10, 2009

LEGEND

X =

A =

B =

Date =

State =

Dear \_\_\_\_\_ :

This responds to a letter dated May 7, 2009, and subsequent correspondence, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to file an entity classification election to be classified as a partnership for federal tax purposes.

Facts

The information submitted states that X is a limited liability company formed under the laws of State on Date. X has two owners, A and B. X is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8). A and B intended for X to be classified as a partnership, effective on Date. However, X did not timely file Form 8832, Entity Classification Election, electing to be treated as a partnership. For all relevant years, X, A and B filed their returns consistent with X being a partnership.

### Law and Analysis

Section 301.7701-3(a) provides 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. Elections are necessary only when an eligible entity does not want to be classified under the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(1)(i) provides that, unless the entity elects otherwise, a domestic eligible entity is a partnership if it has two or more members.

Section 301.7701-3(c)(1)(i) provides that to elect to be classified other than as provided in § 301.7701-3(b), an eligible entity must file Form 8832, Entity Classification Election, with the designated service center. Under § 301.7701-3(c)(1)(iii), this election can be effective up to seventy-five (75) days prior to the date the form is filed or up to twelve (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.

Sections 301.9100-1 through 301.9100-3 provide the standards that 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 rules for requesting extensions of time for regulatory 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 the 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 make an election to be treated as a partnership for federal tax purposes effective beginning Date. X must make the election by filing a properly executed Form 8832 with the appropriate service center. A copy of this letter should be attached to the form.

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) 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,

*Curt G. Wilson*

Curt G. Wilson  
Associate Chief Counsel  
(Passthroughs & Special Industries)

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

cc: