

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:1-PLR-113586-98
Date:
Jan. 07, 1999

Legend

X =

Y =

Z =

A =

B =

Country C =

Date 1 =

This responds to a letter submitted on your behalf dated June 19, 1998, requesting an extension of time to elect to treat B as an entity that is disregarded as an entity separate from its owner for federal tax purposes.

FACTS

B is a Country C entity that is eligible to elect to be disregarded as an entity for federal tax purposes. Through tiers of wholly owned entities, Y, Z, and A, X owns 100% of B. B intended to elect to be disregarded as of Date 1, but the election was not timely filed with the appropriate service center.

LAW AND ANALYSIS

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an association taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise. If a foreign eligible entity has one owner, it may elect to be taxable as an entity that is disregarded as an entity separate from its owner pursuant to the rules in § 301.7701-3(c). 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 Code, except subtitles, E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose deadline is prescribed by a regulation 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 extension 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).

CONCLUSION

In the present situation, the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, an extension of time is granted to elect that B be treated as an entity that is disregarded as an entity separate from its owner for federal tax purposes until 60 days following the date of this letter. The election should be made by following the procedure for filing Form 8832. A copy of this letter should be attached to the election.

Except as specifically set forth above, no opinion is expressed or implied as to

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the federal income tax consequences of the transactions described above under any other provision of the code.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) 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 your authorized representative.

Sincerely,

Signed Paul F. Kugler
PAUL F. KUGLER
Assistant Chief Counsel
(Passthroughs and Special Industries)

Enclosures:

Copy of this letter
Copy for §6110 purposes