Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:1-PLR-115457-99
Date: JAN 7, 2000

Legend:

A =

B =

D1 =

D2 =

State =

Country =

This responds to your letter dated September 9, 1999, and subsequent correspondence, submitted on behalf of A requesting an extension of time pursuant to §301.9100-3(a) of the Procedure and Administration Regulations to file an election for A to be classified as an association taxable as a corporation for federal tax purposes under § 301.7701-3(c).

FACTS

A is a limited liability company formed under the laws of State on D1. A began doing business on D2. The sole owner of A is B, a corporation formed under the laws of Country.

231

A represents that B intended for A to be treated as a separate corporation for federal tax purposes effective D2. The need for an election was discussed with the officers of B, but the officers of B believed that its accountants would prepare and make the election. Due to miscommunication, the election to treat A as a corporation was not made.

LAW AND ANALYSIS

Section 301.7701-3(b)(1) provides guidance on the classification of domestic eligible entities for federal tax purposes. Generally, a domestic eligible entity with one owner is treated as disregarded as an entity separate from its owner unless the entity elects to be treated as an association taxable as a corporation.

Under § 301.7701-3(c)(1), a domestic eligible entity may elect to be classified other than as provided under § 301.7701-3(b)(1) by filing a Form 8832, Entity Classification Election, with the designated service center. An election under § 301.7701-3(b) can be effective on the date specified on the Form 8832 or on the date filed. The effective date specified on the Form 8832 cannot be more than 75 days prior to the date on which the election is filed.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines a 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 standards 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 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

Based solely on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, A is granted an extension of time to make the election to have it treated as a corporation for federal tax purposes, effective D2, until 60 days following the date of this letter. The

election should be made by following the procedure set forth in Form 8832 and a copy of this letter should be attached to the election.

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) of the Code 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 the taxpayer.

Sincerely,

Paul F. Kugler

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

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