

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:1-PLR-133005-01

Date:

October 18, 2001

Legend:

X =

Y =

D1 =

D2 =

This responds to a letter dated May 25, 2001, submitted on behalf of X, requesting that X be given an extension of time under section 301.9100-3(a) of the Procedure and Administration Regulations to elect to be disregarded as an entity separate from its owner for federal tax purposes.

FACTS

According to the information submitted, Y is a domestic corporation. Y formed X, a domestic eligible entity, on D1. X elected to be treated as an association taxable as a corporation for federal tax purposes, effective on D1. On D2, X intended to elect to be disregarded as an entity separate from its owner for federal tax purposes. However, the Form 8832, Entity Classification Election, was not timely filed.

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 any 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 301.7701-2(a). An eligible entity with a single owner can elect either to be classified as an association (and thus a corporation under section 301.7701-2(b)(2)) or to be disregarded as an entity separate from its owner.

An eligible entity may elect to change its classification by filing a Form 8832 with the

designated service center. Section 301.7701-3(c)(1)(i). An election can be effective on the date specified on the Form 8832 or on the date filed if no such date is specified. The effective date specified on the Form 8832 cannot be more than 75 days prior to the date the election is filed. Section 301.7701-3(c)(2)(iii).

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 to mean an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Requests for relief under section 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 section 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of sixty (60) days from the date of this letter to elect to be treated as disregarded as an entity separate from its owner for federal tax purposes, effective D2. The election should be made by filing Form 8832 with the appropriate service center. 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) 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
Associate Chief Counsel
(Passthroughs and Special Industries)

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