

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

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Refer Reply To:

CC:PSI:B01 – PLR-107715-04

Date:

May 06, 2004

Legend

X =

Date 1 =

State =

Dear

This letter responds to your letter dated January 23, 2004 submitted on behalf of X requesting a time extension under section 301.9100-3 of the Procedure and Administration Regulations for X to elect to be treated as an association taxable as a corporation for federal tax purposes.

FACTS

According to the information submitted, X was formed on Date 1 under State law. X intended to elect to be treated as an association taxable as a corporation effective Date 1. However, Form 8832, Entity Classification Election, inadvertently 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. An eligible entity with more than one owner can elect to be classified an association.

Section 301.7701-3(b)(1) provides that an eligible entity with more than one owner will be a partnership unless it elects otherwise.

Section 301.7701-3(c)(1)(i) allows an eligible entity to elect to be classified other than as provided under section 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the service center designated on that Form. Section 301.7701-3(c)(1)(iii) provides that all such elections become effective on the date specified by the entity on Form 8832 or on the date filed if no effective date is specified. The specified effective date must not be earlier than 75 days prior to the filing date of Form 8832, nor later than twelve months after the filing date.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of sections 301.9100-2 and 301.9100-3. Under section 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner will grant relief when the taxpayer provides evidence proving to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of Government.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that X has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time of 60 days from the date of this letter to file Form 8832 with the appropriate service center and elect to be treated as an association taxable as a corporation for federal tax purposes effective Date 1. 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.

Sincerely,

/s/ Heather C. Maloy

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes

cc: