

X represents that granting relief will not prejudice the interests of the government and that hindsight is not involved in seeking relief to file a late election. X further represents that such relief would not result in a lower tax liability in the aggregate for all years to which the request applies. Finally, X represents that it acted reasonably and in good faith.

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. An eligible entity with at least two members can elect to be classified as either an association taxable as a corporation or a partnership.

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 the form is filed.

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 the election. Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) 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. Accordingly, X is granted an extension of time of 120 days from the date of this letter to elect to be classified as an association taxable as a corporation for federal tax purposes effective Date. The election should be made by filing a Form 8832 with the appropriate service center and a copy of this letter should be attached to the election.

This ruling is contingent on X filing within 120 days of this letter all required returns or amended returns consistent with the requested relief in this letter.

Except as specifically set forth above, 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(s) 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 X's authorized representative.

In accordance with a power of attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

Sincerely,
Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Adrienne M. Mikolashek
Branch Chief, Branch 3
(Passthroughs & Special Industries)

Enclosures (2)
Copy of Letter
Copy for 6110 purposes