

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **200646005**

Release Date: 11/17/2006

Index Number: 9100.31-00

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC: PSI: B02 – PLR-110052-06

Date: June 5, 2006

X =

REIT =

Taxpayer =

State 1 =

State 2 =

Date 1 =

Date 2 =

Dear :

This letter responds to a letter dated January 31, 2006, written on behalf of Taxpayer requesting a ruling, under sections 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations, that Taxpayer be granted an extension of time to elect to be treated as an association taxable as a corporation for federal tax purposes under section 301.7701-3(c).

FACTS

According to the information submitted, X a State 1 limited liability company, is the sole owner of REIT, a State 2 real estate investment trust. REIT is the direct owner of Taxpayer, a State 1 limited liability company. Taxpayer was originally a tax exempt corporation, but was converted on Date 1 to a limited liability company.

X relied on its tax professional to analyze the tax ramifications of the Date 1 conversion and to advise it of all necessary elections. An election to treat Taxpayer as an association taxable as a corporation was required to be filed by Date 2. Prior to the due date of entity classification election, X's was not advised, nor did it know, that it should make an election to treat Taxpayer as an association taxable as a corporation. It was not until after the election due date that X was advised that it should have made the election with respect to Taxpayer. Upon learning that the election should have been filed, Taxpayer filed the instant private letter ruling request seeking relief to make a late entity election.

LAW AND ANALYSIS

Section 301.7701-3(a) provides, in part, 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 as provided in this section. An eligible entity with one member may be classified as either an association (and thus a corporation under section 301.7701-2(b)(2)) or as a disregarded entity.

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may 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 the form.

Section 301.7701-3(c)(1)(iii) provides, in part, that an election made under section 301.7701-3(c)(1)(i) will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The effective date specified on Form 8832 can not be more than 75 days prior to the date on which the election is filed and can not be more than 12 months after the date on which the election is filed.

Under section 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.

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 301.9100-2 provides an 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 section 301.9100-2. 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.

CONCLUSIONS

Based solely on the facts submitted and the representations made, we conclude that Taxpayer has satisfied the requirements of section 301.9100-3. As a result, Taxpayer is granted an extension of time of sixty (60) days from the date of this letter to file a properly executed Form 8832, electing to be treated as an association taxable as a corporation, with the appropriate service center, effective Date 1.

A copy of this letter should be attached to the election. A copy is enclosed for that purpose.

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office a copy of this letter is being sent to Taxpayer's authorized representative.

Sincerely,

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

Enclosures (2):
Copy of this letter
Copy for section 6110 purposes