

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

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Date:
May 8, 2000

LEGEND:

Country =

X =

Y =

Z =

A =

B =

D =

Dear

This letter responds to a letter dated August 2, 1999, written on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election under § 301.7701-3(c).

FACTS

According to the information submitted, X is an entity organized under the laws of Country that is not required to be classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8). X has two shareholders, A and B, each of whom has limited liability. Accordingly, absent a check-the-box election, X is a foreign eligible entity classified as an association under § 301.7701-(3)(b)(2)(i)(B).

X's shareholders also own interests in two other entities organized under the laws of Country that are not required to be classified as corporations under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8). A owns the majority interest in entities Y and Z, and B owns a minority interest in Y. Both Y and Z have two or more shareholders and both have a shareholder that does not have limited liability. Accordingly, absent a check-the-

box election, Y and Z are foreign eligible entities classified as partnerships under § 301.7701-3(b)(2)(i)(A).

X's shareholders desired to have X, as well as Y and Z, classified as a partnership. They intended to have X file an election under Form 8832, Entity Classification Election, to elect partnership status as X's classification effective D. However, the Form 8832 was not timely filed.

X requests a ruling that it will be recognized as a partnership effective D. X represents that it has not sold any assets since D, and that it has no present plan to sell any assets. X also represents that its classification was not relevant under § 301.7701-3(d) during the sixty months prior to D.

LAW AND ANALYSIS

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified as other than its default classification in § 301.7701-3(b) by filing Form 8832 with the appropriate service center. Section 301.7701-3(b)(2)(i)(B) provides that, unless the entity elects otherwise, a foreign eligible entity is classified as an association if all its members have limited liability.

Under § 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.

Section 301.9100-1(b) defines the term "regulatory election" as 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.

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 a regulatory 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.

CONCLUSION

In the present situation, good cause has been shown and the other requirements

of §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, X is granted an extension of time for making the § 301.7701-3(c) election until 60 days following the date of this letter. The election should be made by following the procedure set forth in Form 8832. A copy of this letter should be attached to the election. One is enclosed for that purpose.

Except as specifically set forth above, no opinion is expressed or implied as to the federal tax consequences of the transaction described above under any other provision of the Code. Specifically, no opinion is expressed regarding the U.S. tax consequences of making the election, including, but not limited to, the basis of the assets in the hands of the partnership.

This ruling is directed only to the taxpayer on whose behalf it was requested. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Under a power of attorney on file with this office, a copy of this letter will be sent to X.

Sincerely yours,
PAUL F. KUGLER
Assistant Chief Counsel
(Passthroughs and Special Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes