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X intended to elect to be treated as a partnership for federal tax purposes as of Date. X represents that the failure to timely file the election was not motivated by tax avoidance or retroactive tax planning.

LAW AND ANALYSIS

Section 301.7701-3(a), provides, in part, that a business entity that is not classified as a corporation under § 301.7701-2(b)(1),(3),(4),(5),(6),(7), or (8) can elect its classification for federal tax purposes as provided in this section.

Section 301.7701-3(a) provides that an eligible entity with at least two member can elect be classified as a partnership.

Section 301.7701-3(c)(1)(iii) 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 or up to 12 months after the date the form is filed.

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) provides that the term “regulatory election” includes an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-3 provides the standard the Commissioner will use to determine whether to grant an extension of time for the regulatory election if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer acted reasonably and good faith, and that the granting the relief will not prejudice the interests of the government.

CONCLUSION

Based solely on the facts and representations submitted we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. Accordingly, X is granted an extension of time of 120 days from the date of this letter to elect to be treated as a partnership for federal tax purposes effective Date. X must make such an election by filing a properly executed Form 8832 with the appropriate service center. A copy of this letter should be attached to each of those elections.

Except as specifically set forth above, we express no opinion concerning the federal income tax consequences of the facts described above under any other provision of the Code.

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to the authorized representative of X.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By: _____
Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)