

## Internal Revenue Service

## Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:Br.1-PLR-113534-00

Date:

November 17, 2000

### Legend:

X =

Y =

Z =

Country =

D1 =

D2 =

This letter responds to your June 26, 2000 request for a private letter ruling, submitted on behalf of X, requesting a time extension under § 301.9100-3 of the Procedure and Administration Regulations.

### FACTS

According to the information submitted, X was validly formed under Country law on D1 and began operations on D2. Further, X and X's shareholders, Y and Z, intended from inception to elect to classify X as a partnership for federal tax purposes. However Form 8832, Entity Classification Election, was not timely filed.

### LAW AND ANALYSIS

Section 301.7701-3(b)(2) classifies eligible foreign entities for federal tax purposes. This section classifies any foreign eligible entity whose members all have limited liability as an association, unless the entity elects otherwise.

Section 301.7701-3(c)(1)(i) allows an entity to elect to change its classification 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 that filing date.

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

Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary time extension. Under § 301.9100-3, a request for relief will be granted 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 the Government.

### CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time for making the election to be disregarded as an entity separate from its owner for federal tax purposes, effective D2, until 60 days following the date of this letter. X should make the election by filing Form 8832. A copy of this letter should be attached to that Form.

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. Additionally, no opinion is expressed with respect to the application of section 1291, et seq., to Fund and its U.S. shareholder, in the event that Fund does not make an election under section 301.7701-3 to be treated as a partnership for U.S. tax purposes, or if Fund does not qualify for that election.

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 the taxpayer.

Sincerely,  
Paul F. Kugler  
Associate Chief Counsel  
(Passthroughs and Special Industries)

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

cc: