

Internal Revenue Service

Department of the Treasury

Number: **200125017**
Release Date: 6/22/2001
Index Number: 9100.31-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:3 PLR-105827-00

Date:

March 15, 2001

LEGEND:

X =

Individuals =

=

D1 =

Dear

This letter responds to a letter dated February 23, 2000, 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) to be treated as a partnership.

FACTS

According to the information submitted, Individuals formed X, a foreign eligible entity classified as an association under § 301.7701-3(b)(2)(i)(B), which is engaged in an Internet gaming operation. X intended to file an election under Form 8832, Entity Classification Election, to change its classification to a partnership effective D1. However, the Form 8832 was not timely filed.

X requests a ruling that it will be recognized as a partnership effective D1.

LAW AND ANALYSIS

Section 301.7701-3(c)(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.

If a foreign eligible entity has more than one owner, it may elect to be taxable as a partnership pursuant to the rules in § 301.7701-3(c). 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 on which the form is filed. Under § 301.7701-3(c)(1)(i), an election will not be accepted unless all of the information required by the form and instructions, including the taxpayer identifying number of the entity, is provided on Form 8832. See § 301.6109-1 for rules on applying for and displaying Employer Identification Numbers.

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.

CONCLUSIONS

Based solely on the facts submitted and the representations made, we conclude that 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 to elect under § 301.7701-3(c) to be treated as a partnership for federal tax purposes effective D1. An extension is granted 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. A copy 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 about the tax consequences of making an election for X to become a 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.

Pursuant to a power of attorney on file with this office, a copy of this letter will be sent to your authorized representative.

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

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

cc: