

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B1
PLR-137120-08
Date:
January 27, 2009

Legend

X =

Date 1 =

State =

Dear :

This letter responds to a request, dated August 11, 2008, written on behalf of X, requesting an extension of time under section 301.9100-3 of the Procedure and Administration Regulations to file an election to be treated as a partnership for federal tax purposes under section 301.7701-3(c).

FACTS

Based on the information submitted and representations made within, the relevant facts are as follows. On Date 1, X was organized under State law as a limited liability company. Although X intended that it be taxed as a partnership for federal tax purposes as of Date 1, X did not timely file an election to be treated as a partnership for federal tax purposes.

After X realized that it had not timely filed an election to be treated as a partnership, it requested relief under section 301.9100-3.

X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that it is not using hindsight in making the election.

LAW AND ANALYSIS

Section 301.7701-3(a) provides 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. A "business entity" is an entity recognized for federal tax purposes that is not properly classified as a trust under section 301.7701-4 or otherwise subject to special treatment under the Code. Section 301.7701-2(a). An eligible entity with multiple owners can elect either to be classified either as an association (and thus a corporation under section 301.7701-2(b)(2)) or as a partnership.

Section 301.7701-3(b)(1)(i) provides that unless a domestic eligible entity elects otherwise, the entity is a partnership if it has two or more members.

To elect to be classified other than as provided in section 301.7701-3(b), an eligible entity must file Form 8832, *Entity Classification Election*, with the designated service center. Section 301.7701-3(c)(1)(i). An election can be effective on the date specified on the Form 8832 or on the date filed if no such date is specified. The effective date specified on the Form 8832 cannot be more than 75 days prior to the date the election is filed. Section 301.7701-3(c)(2)(iii).

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 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions for 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. Section 301.9100-3(a).

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of section 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of sixty (60) days from the date of this letter to elect to be treated as a partnership for federal tax purposes, effective Date 1. The election should be made by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

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.

This ruling is directed only to the taxpayer(s) requesting it. Section 6110(k)(3) of the Internal Revenue 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 will be sent to your authorized representative.

Sincerely,

Curt G. Wilson

Curt G. Wilson
Associate Chief Counsel
(Passthroughs and Special Industries)

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

cc: