

## Internal Revenue Service

## Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B01-PLR-110516-00

Date:

December 1, 2000

### Legend:

X =

Y =

Z =

D1 =

State =

Country =

n1 =

n2 =

:

This responds to a letter dated May 12, 2000, together with subsequent correspondence, submitted on behalf of Z, requesting a ruling that Z be given an extension of time under section 301.9100-3(a) of the Procedure and Administration Regulations to file an election to be disregarded as an entity separate from its owner for federal tax purposes under section 301.7701-3(c).

## FACTS

According to the information submitted, X is a corporation formed under the laws of State. X is an S corporation which wholly owns all of the stock of Y. X has elected to treat Y as a Qualified Subchapter S Subsidiary. Z is a limited liability company which was formed under the laws of Country on D1. Z is owned n1% by X and n2% by Y. X and Z intended from inception to elect to disregard Z as an entity separate from X. However, Form 8832, Entity Classification Election, was not timely filed.

## LAW AND ANALYSIS

Section 301.7701-3(b)(1) provides guidance on the classification of foreign eligible entities for federal tax purposes. In the absence of an election to be treated as a partnership, a foreign eligible entity with more than one owner is treated as an association taxable as a corporation if all of the members of the entity have limited liability.

Under § 301.7701-3(c)(1), a foreign eligible entity may elect to be classified other than as provided under § 301.7701-3(b)(2) by filing Form 8832, Entity Classification Election, with the designated service center. An election under § 301.7701-3(b) can be effective on the date specified on the Form 8832 or on the date filed. The effective date specified on the Form 8832 cannot be more than 75 days prior to the date on which the election is filed.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines a regulatory election as including an election whose due date is prescribed by a regulation published in the Federal Register.

Sections 301.9100-1 through 301.9100-3 provide standards the Commissioner will use to determine whether to grant an extension of time to make an 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. Section 301.9100-3(a).

## CONCLUSION

Based solely on the facts submitted and representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Z is granted an extension of time to make the election to be disregarded as an entity

separate from its owner for federal tax purposes, effective D1, until 60 days following the date of this letter. The election should be made by following the procedure set forth in Form 8832 and 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 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 your authorized representative.

Sincerely,

**/s/Paul F. Kugler**

Paul F. Kugler

Associate Chief Counsel

(Passthroughs and Special Industries)

Enclosures (2)

copy of this letter

copy for § 6110 purposes