

Internal Revenue Service

Department of the Treasury

Index Numbers: 9100.00-00
7701.00-00, 7701.02-00

Washington, DC 20224

Number: **199919024**
Release Date: 5/14/1999

Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:2 - PLR-119980-98

Date:

February 12, 1999

X =

A =

B =

C =

Country =

D1 =

Dear :

This letter responds to a letter, dated October 16, 1998, and subsequent correspondence submitted by your authorized representative on behalf of X, requesting an extension of time to file an election for X to be treated as a partnership for federal income tax purposes under § 301.7701-3(c) of the Procedure and Administration Regulations for its taxable year beginning D1.

The information submitted indicates that X was incorporated on D1 under the laws of Country. A and B are the sole shareholders of X. C, the president of X and A, represents that X was intended to be treated as a partnership for United States tax purposes. Under the current classification rules, X is required to make an election to be treated as a partnership for federal tax purposes. However, due to X's attorney's misunderstanding of the filing deadline for a Form 8832, no election was timely filed.

Section 301.7701-3(b)(2) provides guidance on the classification of a foreign eligible entity for federal tax purposes. Generally, a foreign eligible entity is treated as an

association taxable as a corporation if all members have limited liability, unless the entity makes an election to be treated otherwise. 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), which 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 can be effective up to 12 months after the date on which the form was filed.

Under § 301.9100-1(c) of the Procedure and Administration Regulations, 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, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting the relief will not prejudice the interests of the government. Section 301.9100-1(b) defines the term "regulatory election" as including an election whose deadline is prescribed by a notice 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 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.

In the present situation, the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time for making the election to be treated as a partnership for federal tax purposes 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 specifically set forth above, no opinion is expressed or implied as to the federal tax consequences of the transactions described above under any other provision of the Code.

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 is being forwarded to your authorized representative.

Sincerely yours,

PAUL F. KUGLER
Assistant Chief Counsel
(Passthroughs and
Special Industries)

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