Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:3 PLR-117983-00
Date:
September 17, 2001

LEGEND:

Partnership =

LLC =

State =

Company =

b =

c =

X =

D1 =

Country =

n =

Dear

    This letter responds to a letter dated September 19, 2000, and additional correspondence, written on behalf of Company and X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations for X to file an election under § 301.7701-3(c) to be treated as a disregarded entity effective D1.

FACTS

    According to the information submitted, on D1 Partnership, a State limited partnership, acquired through LLC, its disregarded State limited liability company, b percent of the common stock and c percent of the preferred stock of Company, a private limited company formed under the laws of Country. An election was made under § 301.7701-3 to treat Company as a partnership for federal tax purposes.

Company owns n subsidiaries, including X, all of which are private limited companies formed under the laws of Country. X is an entity that is eligible to elect under § 301.7701-3(c) to be disregarded as an entity separate from its owner. However, the Form 8832, Entity Classification Election, was not timely filed so as to treat X as a disregarded entity effective D1.

LAW AND ANALYSIS

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7) or (8) (an eligible entity) can elect its classification for federal tax purposes.

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.

Section 301.7701-3(c)(1)(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(c)(1)(iii) provides that the effective date of an entity classification election can not be more than 75 days prior to the date the election is filed and can not be more than 12 months after the date on which the election 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.

Section 301.7701-3(c)(iv) provides generally that if an eligible entity makes an election to change its classification, the entity cannot change its classification by election again during the sixty months succeeding the effective date of the election.

Section 301.7701-3(d)(1) provides that a foreign eligible entity's classification is relevant when its classification affects the liability of any person for federal tax or information purposes.

Section 301.7701-3(g)(1)(iii) provides that if an eligible entity classified as an association elects to be disregarded as an entity separate from its owner, the following is deemed to occur: The association distributes all of its assets and liabilities to its single owner in liquidation of the association.

Section 301.7701-3(g)(3)(iii) provides that when elections for a series of tiered entities are effective on the same date, the eligible entities may specify the order of the elections on Form 8832. If no order is specified for the elections, any transactions that are deemed to occur as a result of the classification change will be treated as occurring

first for the highest tier entity's classification change, then for the next highest tier entity's classification change, and so forth down the chain of entities until all the transactions have occurred.

The provisions of § 301.7701-3(g) apply to elections filed on or after November 29, 1999. Taxpayers may apply the provisions of § 301.7701-3(g) retroactively to elections filed before November 29, 1999 if all taxpayers affected by the deemed transactions file consistently with the provisions of § 301.7701-3(g).

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 for making the § 301.7701-3(c) election 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. 0A 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 be treated as an entity that is disregarded

as separate from its owner. Further, no opinion is expressed regarding the election made to treat Company as a partnership for federal tax purposes.

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, this letter is being sent to you as the taxpayer's authorized representative. A copy of this letter will also be sent to the taxpayer.

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

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