

Internal Revenue Service

Department of the Treasury

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:Br.1-PLR-114316-99

Date:

Jan 04, 2000

Legend:

U =

V =

W =

X =

Y =

Z =

D1 =

D2 =

This letter responds to your August 20, 1999 request for a private letter ruling, submitted on behalf of Z, requesting a time extension under § 301.9100-3 of the Procedure and Administration Regulations.

FACTS

X is a domestic corporation which, through a series of holding companies, co-owned Y. Three other entities, U, V, and W owned the remainder of Y. On D1 Y, along with two foreign national-owned enterprises, formed Z, a foreign entity. Y intended to classify Z as a partnership for federal tax law purposes. The owners of Y agreed that the in-house tax group affiliated with U and V would file Form 8832, Entity Classification Election, on Z's behalf. However, Form 8832 was not timely filed.

On D2, U and V sold most of their collective ownership interests in Y to X. As a result of this sale, X assumed additional management duties for Y, including all tax administration. X learned of the failure to file Form 8832 soon thereafter.

LAW AND ANALYSIS

Section 301.7701-3(b)(2) classifies eligible foreign entities for federal tax purposes. This section classifies any foreign eligible entity whose members all have limited liability as an association, unless the entity elects otherwise.

Section 301-7701-3(c)(1)(i) allows an entity to elect to change its classification by filing Form 8832, Entity Classification Election, with the service center designated on that Form. Section 301.7701-3(c)(1)(iii) provides that all such elections become effective on the date specified by the entity on Form 8832 or on the date filed if no effective date is specified. The specified effective date must not be earlier than 75 days prior to the filing date of Form 8832, nor later than twelve months after that filing date.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make regulatory elections under the rules of sections 301.9100-2 and 301.9100-3. Under section 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register or a notice published in the Internal Revenue Bulletin.

Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary time extension. These standards indicate that the Commissioner should grant relief when the taxpayer provides evidence proving to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that Z has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, Z is granted an extension of time for making the election to be treated as a partnership for federal tax purposes, effective D1, until 60 days following the date of this

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letter. Z should make the election by filing Form 8832. A copy of this letter should be attached to that Form.

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,

Signed/Paul F. Kugler

Paul F. Kugler
Assistant Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes