

## Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

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Date:

June 11, 2002

### Legend

Parent =

Subsidiary 1 =

Subsidiary 2 =

Foreign Country =

Date 1 =

Date 2 =

Dear :

This letter responds to a letter dated August 22, 2001, and subsequent correspondence, presented on behalf of Subsidiary 1, requesting a ruling under section 301.9100-3(a) of the Procedure and Administration Regulations that would result in an extension of time, pursuant to section 301.9100-1(a), to file an election for Subsidiary 2 to be treated as a corporation for federal tax purposes, pursuant to section 301.7701-3, retroactive to Date 1.

### Facts

The following description represents the facts as provided by Subsidiary 1.

Subsidiary 1 is a wholly owned subsidiary of Parent. Subsidiary 2, a wholly owned subsidiary of Subsidiary 1, was formed on Date 1. Subsidiary 2 was formed for the sole purpose of providing on-shore financing in Foreign Country for Parent.

Subsidiary 1 believed that Subsidiary 2 was a corporation for US federal tax purposes and filed a Form 5471, Information Return of U.S. Persons With Respect To Certain Foreign Corporations, for Subsidiary 2, for its first year in existence.

On or about Date 2, a date more than 75 days after Subsidiary 2 was formed, an executive of Subsidiary 1, during a routine review of tax forms, discovered that a Form 8832, Entity Classification Election, inadvertently had not been filed for Subsidiary 2.

### Law and Application

Section 301.7701-2(a) generally provides that a business entity is any 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 Internal Revenue Code. Section 301.7701-3(a) further provides that a business entity with only one owner is classified as a corporation or is disregarded. If it is disregarded, then the entity's activities are treated in the same manner as a sole proprietorship, branch, or division of the owner.

Section 301.7701-3(a) provides that so long as a business entity is not classified as a corporation under section 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8), it has an opportunity to elect its classification for federal tax purposes. Generally, section 301.7701-3(b)(2)(i)(C) provides that if a foreign eligible entity with a single owner that has unlimited liability fails to elect its treatment for federal tax purposes, then the entity will be disregarded as an entity separate from its owner.

Subsidiary 2 is a business entity that is eligible to elect its classification for federal tax purposes pursuant to section 301.7701-3(a). Subsidiary 2 is a foreign eligible entity with Subsidiary 1 as its single owner. Subsidiary 1, pursuant to section 301.7701-3(b)(2)(ii) is considered to have unlimited liability. Therefore, unless a timely election otherwise has been filed or an exception is created, Subsidiary 2 will be treated in the same manner as a sole proprietorship, branch, or division of Subsidiary 1.

Section 301.9100-1(c) permits the Commissioner to grant a reasonable extension of time for making certain elections. Section 301.9100-3 provides that an extension of time to file certain elections will be granted if the taxpayer is able to establish that it acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

Conclusion

Based solely on the facts and representations submitted, we conclude that the requirements of sections 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Subsidiary 1 is granted an extension of time of 60 days from the date of this letter to file, on behalf of Subsidiary 2, Form 8832, effective on Date 1, with the appropriate service center. A copy of this letter should be attached to the election. A copy is enclosed for this purpose.

Except for the specific ruling above, no opinion is expressed or implied concerning the federal income tax consequences of the facts of this case under any other provision of the Internal Revenue Code.

Pursuant to your request, we are sending a copy of this letter by facsimile transmission.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

/s/

William P. O'Shea  
Acting Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes

cc: