

Internal Revenue Service

Department of the Treasury

Number: **200102037**
Release Date: 1/12/2001
Index Number: 7701.00-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:1-PLR-116277-00

Date:

October 12, 2000

Legend:

A =

x% =

This responds to your letter dated August 14, 2000 submitted on behalf of A, in which you request a ruling under section 7701 of the Internal Revenue Code.

FACTS

A is the sole owner of property ("Property") part of which is rented to unrelated third persons for residential use, and, the remainder of which is used by A for residential purposes. A proposes to transfer 100% of Property to a newly formed limited liability company ("LLC") in exchange for a 100% interest in LLC. Thereafter, A intends to transfer approximately x% of A's interest in LLC to a trust ("Trust") which A will create. A represents that Trust will be treated as a grantor trust in which A is the sole owner within the meaning of sections 671 through 679. On an ongoing basis, A will make rental payments to LLC for A's personal use of the property and LLC will collect rental payments from the unrelated third party tenants.

A represents that LLC will not make an election to be treated as an association taxable as a corporation for Federal income tax purposes. Rather, LLC will exist according to its default classification under § 301.7701-3 of the Procedure and Administration Regulations.

LAW AND ANALYSIS

Section 301.7701-3(b)(1) of the Procedure and Administration Regulations provides guidance on the classification of domestic eligible entities for federal tax purposes. Generally, a domestic eligible entity with a single member is disregarded as an entity separate from its owner unless the entity elects to be treated otherwise. § 301.7701-3(b)(1)(ii).

Section 671 provides that when the grantor is treated as the owner of any portion

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of a trust, there shall be then be included in computing the taxable income and credits of the grantor those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent that such items would be taken into account in computing taxable income or credits against the tax of an individual.

A represents that Trust is a grantor trust in which A is considered the sole owner. Because A is considered to be the owner of the entire trust, A is considered to be the owner of the trust assets for federal income tax purposes. See *Ringwalt v. United States*, 549 F.2d 89 (8th Cir. 1977), cert. denied, 432 U.S. 906 (1977); *Estate of O'Connor v. Commissioner*, 69 T.C. 165 (1977). The reason for attributing items of income, deduction, and credit to the grantor under section 671 is that, by exercising dominion and control over a trust, either by retaining a power over or an interest in the trust, or, by dealing with the trust property for the grantor's benefit, the grantor has treated the property as though it were the grantor's property. Rev. Rul. 85-13, 1985-1 C.B. 184.

CONCLUSION

Based solely on the facts submitted and representations made, LLC will be considered disregarded as an entity separate from its owner, A, and the payment of rent by A to LLC does not result in any taxable income to or deduction for A.

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 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 the taxpayer.

Sincerely,
/s/Christopher T. Kelley
Acting Assistant to the Branch Chief
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2):

Copy of this letter

Copy for § 6110 purposes