

## Internal Revenue Service

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Washington, DC 20224

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Refer Reply To:  
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August 18, 2008

### LEGEND

X =

Y =

State =

Date1 =

Date2 =

Dear :

This letter responds to the letter dated April 15, 2008, submitted on behalf of X, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file an election to be treated as an association taxable as a corporation for federal tax purposes under § 301.7701-3(c).

### FACTS

X was formed on Date1 as a State limited liability company. Upon formation, X was treated as a partnership for federal tax purposes. On Date2, Y became the sole owner of X. Y intended that X be treated as an association taxable as a corporation for federal tax purposes effective Date2. However, X inadvertently failed to timely file a Form 8832, Entity Classification Election.

## **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 as provided in § 301.7701-3. An eligible entity with a single owner can elect to be classified as an association (and thus a corporation under § 301.7701-2(b)(2)) or to be disregarded as an entity separate from its owner.

Section 301.7701-3(b)(1) provides that except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a domestic eligible entity is (i) a partnership if it has two or more members; or (ii) disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-3(c)(1)(i) provides, in part, that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b), or to change its classification, by filing Form 8832, Entity Classification Election, with the service center designated on Form 8832.

Section 301.7701-3(c)(1)(iii) provides that an election under § 301.7701-3(c)(1)(i) will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The effective date specified on Form 8832 can not be more than 75 days prior to the date on which the election is filed and can not be more than 12 months after the date on which the election is filed. If an election specifies an effective date more than 75 days prior to the date on which the election is filed, it will be effective 75 days prior to the date it was filed.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in § 301.9100-2 and § 301.9100-3 to make a regulatory election, or a statutory election (but not more than 6 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 301.9100-2 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.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer 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 submitted and representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. Accordingly, X is granted an extension of time of sixty (60) days from the date of this letter to elect to be treated as an association taxable as a corporation for federal tax purposes effective Date2. The election should be made by filing a properly executed Form 8832 with the appropriate service center. A copy of this letter should be attached to the election.

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

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 a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representatives.

Sincerely,

/s/

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

Enclosures (2)

Copy of this letter  
Copy for § 6110 purposes

cc: