Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Person To Contact:

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Telephone Number:

Refer Reply To:
CC:PSI:B3 – PLR-168478-03
Date:
February 17, 2004

LEGEND

Taxpayer   =

Parent   =

State   =

Date 1   =

Date 2   =

Dear   :

   This letter responds to a letter dated November 25, 2003, and supplemental correspondence, submitted on behalf of Taxpayer, requesting a ruling under § 301.9100-3(a) of the Procedure and Administration Regulations that Taxpayer be granted an extension of time to make an election to be treated as an association for federal tax purposes.

<u>Facts</u>

   According to the information submitted, Taxpayer was formed as a State limited liability company on Date 1. Taxpayer was formed in connection with a series of transactions and acquisitions completed on Date 2 by Taxpayer's sole owner, Parent. It was always intended for Taxpayer to be classified as an association for federal tax

purposes. However, Taxpayer inadvertently failed to file the Form 8832, Entity Classification Election.

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 § 301.7701-4 or otherwise subject to special treatment under the Internal Revenue Code.

Section 301.7701-3(a) provides that so long as a business entity is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity), it may elect its classification for federal tax purposes. Section 301.7701-3(b)(1)(ii) provides that, unless the entity elects to be taxed as an association, a domestic eligible entity with a single owner is a disregarded entity.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing a Form 8832 with the appropriate service center. Under § 301.7701-3(c)(1)(iii), this election 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 date specified on Form 8832 cannot 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.

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 an 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.

Section 301.9100-3(a) provides that requests for relief will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the government.

Conclusion

Based on the facts represented, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, Taxpayer is granted an extension of time to file a Form 8832 electing to be taxed as an association effective Date 1. The Form 8832 must be filed with the Philadelphia Service Center within 60 days of the date of this letter, and a copy of this letter should be attached to the Form 8832. A copy is enclosed for that purpose.

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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 Internal Revenue Code.

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

In accordance with the power of attorney submitted with the ruling request, a copy of this letter is being sent to Taxpayer as well as a second representative.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs & Special Industries)

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