

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2-PLR-123127-02

Date:

October 15, 2002

Legend

LLC =

State =

Date 1 =

Date 2 =

Dear :

This responds to a letter dated April 19, 2002, submitted on behalf of LLC by its authorized representative, requesting an extension under § 301.9100-3 of the Procedure and Administration Regulations for LLC to elect to be treated as an association taxable as a corporation for federal tax purposes.

Facts

According to the information submitted, LLC was formed on Date 1 under the laws of State. LLC inadvertently failed to timely file Form 8832, Entity Classification Election, to be classified as an association taxable as a corporation for federal tax purposes effective Date 2.

Law and Analysis

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under section 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an "eligible entity") can elect its classification for federal tax purposes. A "business entity" is an 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 Code. Section

301.7701-2(a). An eligible entity with at least two owners can elect either to be classified as an association (and thus a corporation under § 301.7701-2(b)(2)) or a partnership.

Section 301.7701-3(b)(1) provides that an eligible entity with at least two owners will be classified as a partnership unless it elects otherwise.

Section 301.7701-3(c)(1)(i) allows an eligible entity to elect to change its classification by filing Form 8832, Entity Classification Election. 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 the filing date.

Section 301.9100-1(c) gives the Commissioner discretion to grant reasonable extensions of time to make an election.

Section 301.9100-1 through § 301.9100-3 set forth the standards that the Commissioner uses to determine whether to grant a discretionary extension of time to make an election. Section 301.9100-1(a).

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.

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

Conclusion

Based on the information submitted and the representations made, we conclude that the requirements of section §§ 301.9100-1 and 301.9100-3 have been satisfied. Consequently, X is granted an extension of time of 60 days from the date of this letter to file Form 8832 with the appropriate service center electing under § 301-7701-3(c) to be classified as an association taxable as corporation for federal tax purposes effective Date 2. A copy of this letter should be attached to that form.

Except as expressly provided herein, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Code. Section 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

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

Pursuant to a power of attorney on file with this office a copy of this letter is being sent to X's first and second authorized representatives.

Sincerely,

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

Enclosures (2):

Copy of this letter

Copy for section 6110 purposes