

Internal Revenue Service

Department of the Treasury

Number: **200335028**
Release Date: 8/29/2003
Index Number: 9100.31-00

Washington, DC 20224

Person to Contact:

Telephone Number:

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CC:PSI:2-PLR-155742-02

Date:

May 23, 2003

Legend

LLC =

Country =

A =

SSN:

Date 1 =

Dear :

This letter responds to your letter dated October 7, 2002, together with subsequent correspondence, submitted on behalf of LLC, requesting an extension of time under section § 301.9100-3 of the Procedure and Administration Regulations for LLC to file an entity election under § 301.7701-3(c).

Facts

The information submitted states that LLC, a Country limited liability company, was formed on Date 1. A intended that X make an entity classification election. However, due to inadvertence, Form 8832, Entity Classification Election, was not timely filed.

Law and Analysis

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation for federal tax purposes under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) may elect its classification for federal tax purposes as provided in this section. An eligible entity with a single owner may elect to be classified as an association (and thus a corporation under § 301.7701-2(b)(2)) or to be a disregarded entity separate from its owner (a disregarded entity).

Section 301.7701-3(b)(2) classifies eligible foreign entities for federal tax purposes. This section classifies any foreign eligible entity whose members all have limited liability as an association, unless the entity elects otherwise.

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

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 that filing date.

Under § 301.9100-1(c) the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code, except subtitles E, G, H, and I.

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 a regulatory 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 election 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 LLC has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, LLC is granted an extension of time for making an entity classification election, effective Date 1, until 60 days following the date of this letter. LLC should make the election by filing Form 8832 with the appropriate service center. A copy of this letter should be attached to the form.

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 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 A and X's second authorized representative.

Sincerely,

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