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Internal Revenue Service

Department of the Treasury

Index Number: 9100.31-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:Br.1-PLR-116271-99
Date: DEC 3 1999

Legend:

X =

D1 =

This letter responds to your letter dated September 20, 1999, submitted on behalf of X, requesting a time extension under section 301.9100-3 of the Procedure and Administration Regulations for X to elect to be treated as a corporation for federal tax purposes.

FACTS

X, formed on D1, intended from inception to be treated as an association taxable as a corporation. However, X's legal representative failed to advise X and X's sole member that absent an affirmative election, X would be disregarded and not taxed as a corporation for federal tax purposes.

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. An eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

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Section 301.7701-3(b)(1) provides that an eligible entity with a single owner will be disregarded as an entity separate from its owner 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, with the service center designated on that Form. 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 regulatory elections under the rules of sections 301.9100-2 and 301.9100-3. Under section 301.9100-1(b), a regulatory election includes an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-3 sets forth the standards which the Commissioner uses to determine whether to grant a discretionary extension of time. These standards indicate that the Commissioner should grant relief when the taxpayer provides evidence proving to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of Government.

CONCLUSION

X has satisfied the requirements of sections 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time for making the election to be treated as a corporation for federal tax purposes, effective D1, until 60 days following the date of this letter. X should make the election by filing Form 8832. A copy of this letter should be attached to that 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(s) requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

PLR-116271-99

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Paul F. Kugler

Paul F. Kugler
Assistant Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)
Copy of this letter
Copy for section 6110 purposes