Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

199908057

PLR-111994-98
Date:
NOV 30 1998

Legend

X =

State A =

Date 1 =

This responds to a letter dated June 1, 1998, and subsequent correspondence submitted on behalf of X, requesting that X be given an extension of time to file an election to be treated as a corporation for federal tax purposes under §301.7701-3(c) of the Procedure and Administration regulations.

FACTS

X was organized in State A as a domestic limited liability company with two or more members on Date 1. X did not file an election under § 301.7701-3(c) within 75 days of its first taxable year beginning Date 1.

LAW AND ANALYSIS

Section 301.7701-3(b)(1) provides guidance on the classification of domestic eligible entities for federal tax purposes. Generally, a domestic eligible entity with at least two members is treated as a partnership unless the entity elects to be treated otherwise.

Under §301.7701-3(c)(1), a domestic eligible entity may elect to be classified other than as provided under § 301.7701-3(b)(1) by filing a Form 8832, Entity Classification Election, with the designated service center. An election under §301.7701-3(b) can be effective on the date specified on the Form 8832 or on the date filed. The effective date specified on the Form 8832 cannot be more than 75 days prior

to the date on which the election is filed.

Section 301.9100-1(c) of the Procedure and Administration Regulations provides that the Commissioner has discretion to grant a reasonable extension of time, under the rules set forth in §§301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines a regulatory election as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Sections 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-1(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

In the present situation, the requirements of §§301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time to elect to be treated as a corporation for federal tax purposes until 60 days following the date of this letter. The election should be made following the procedure set forth in Form 8832. A copy of this letter should be attached to the election.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code.

As provided in the power of attorney on file in this office, a copy of this letter is being sent to the second representative listed.

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

Sincerely yours,

Paul F. Kugler

PAUL F. KUGLER
Assistant Chief Counsel
(Passthroughs and Special Industries)

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