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Internal Revenue Service

Department of the Treasury

UIL 528.00-00

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Ben Franklin Station
Washington, DC 20044

Person to Contact:

Telephone Number:

Refer Reply to:

CC:DOM:P&SI:7--PLR-100820-99

Date:
MAY 10 1999

Re:

Legend:

X:

EIN:

date 1:

date 2:

date 3:

a:

b:

Dear :

This letter responds to your letter, dated , submitted on behalf of X, requesting a ruling to grant X an extension of time, under § 301.9100-1 of the Procedure and Administration Regulations for the filing of elections to be a homeowners association on Form 1120H under § 1.528-8 of the Income Tax Regulations for the tax years a and b.

The represented facts are as follows: X is a residential homeowners association incorporated by developer on date 1. Developer handled the management responsibilities until the management functions were transferred to elected officers from among the homeowners on date 3. The new officers were not aware of the income tax filing requirements for X, neither were they told of any filing requirements by the developer. On date 2, the officers became aware of the filing requirements for X.

Section 528(a) of the Internal Revenue Code provides that a homeowners association (as defined in § 528(c)) shall be subject to taxation under Subtitle A only to the extent provided in § 528. A homeowners association shall be considered an organization exempt from income taxes for the purpose of any law which refers to organizations exempt from income taxes.

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Section 528(c)(1) defines the term "homeowners association", in part, as an organization that elects (at such time and in such manner as the Secretary by regulations prescribes) to have § 528 apply for the taxable year.

Section 1.528-8(a) of the regulations provides that an organization wishing to be treated as a homeowners association under § 528 and § 1.528 for a taxable year must elect to be so treated. Except as otherwise provided in § 1.528 such election shall be made by the filing of a properly completed Form 1120-H (or such other form as the Secretary may prescribe). A separate election must be made for each taxable year.

Section 1.528-8(b) provides that for years ending after December 30, 1976, the election must be made not later than the time, including extensions, for filing an income tax return for the year in which the election is to apply.

Section 301.9100-1(c) provides that the Commissioner, in exercising his discretion, may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than 6 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 301.9100-2 and 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the 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 the 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).

Based on the facts and representations submitted with your request, we have determined that the requirements of § 301.9100-3 have been satisfied. Therefore, an extension of time for making the election to have § 528 apply for each of the taxable years a and b is granted, provided that the elections are made within 30 days after the date of this letter ruling. A copy of this letter should be attached to X's election for each year covered by this ruling letter.

Except as specifically ruled herein, we express or imply no opinion on the federal tax consequences of the transaction described above under § 528 or any other provision of the Code. Moreover, we express no opinion concerning the assessment of interest, additions to tax, additional amounts, or penalties for failure to file an income tax return with respect to any year. Specifically, we express no opinion on whether X qualifies as a homeowners association under § 528(c).

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

Sincerely yours,

(Signed) Paul F. Kugler

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