

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-116943-00

Date:

January 8, 2001

X =

Y =

Z =

XX =

A =

D1 =

x =

y =

Country =

State =

Dear :

This letter responds to your letter dated August 31, 2000, and subsequent correspondence, submitted on behalf of X as X's authorized representative, requesting that X be given an extension of time in which to elect to be treated as a partnership for federal tax purposes as of D1.

The information submitted states that X is an international business company formed under the laws of Country that is x% owned by Y, a State corporation, and y% owned by Z, a Country company. A, a director of X, represents that Y is a member of the consolidated group of which XX is the common parent and is unrelated to Z.

Y contributed certain assets to X on D1 in return for an x% ownership interest. A further represents that X is a foreign eligible entity within the meaning of § 301.7701-3(b) of the Procedure and Administration Regulations and that X was intended

to elect to be classified as a partnership for federal tax purposes as of D1. However, due to oversight on the part of A and of X's attorney, the election to treat X as a partnership was not timely made.

Section 301.7701-3(b)(2) provides guidance on the classification of foreign eligible entities for federal tax purposes. In the absence of an election to be treated as a partnership, a foreign eligible entity with more than one owner is treated as an association taxable as a corporation if all of the members of the entity have limited liability.

Section 301.7701-3(c)(1) provides that a foreign eligible entity may elect to be classified other than as provided under § 301.7701-3(b)(2) by filing a Form 8832, Entity Classification Election, with the designated service center. An election 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) provides that the Commissioner has the 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 "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.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

In the present situation, based on the information submitted and the representations made, the requirements of § 301.9100-3 have been satisfied. As a result, X is granted an extension of time for making the election to be treated as a partnership for federal tax purposes, effective D1, until 60 days following the date of this letter. The election should be made by 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.

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. Pursuant to a power of attorney on file with this office, copies of this letter are being sent to X and to X's other authorized representative.

Sincerely yours,
PAUL F. KUGLER
Associate Chief Counsel
(Passthroughs & Special Industries)

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