

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

[REDACTED]

Refer Reply To:

CC:PSI:1-GENIN-153232-02

Date:

Nov 14 2002

Dear [REDACTED]:

This letter responds to correspondence dated September 30, 2002, submitted on behalf of [REDACTED], requesting information regarding an election under § 1362(a) after an election termination under § 1362(d).

Section 1362(g) generally provides that if a small business corporation made an election under § 1362(a), and the election was terminated under § 1362(d), the corporation (and any successor corporation) is not be eligible to make an election under § 1362(a) for any taxable year before its 5th taxable year, unless the Secretary consents to such election. Section 1.1362-5 of the income tax regulations generally provides that the corporation has the burden of establishing that under the relevant facts and circumstances, the Commissioner should consent to a new election.

If you have any additional questions, please contact our office at

Sincerely,
David R. Haglund
Senior Technical Reviewer, Branch 1
Associate Chief Counsel
(Passthroughs and Special Industries)