

**Internal Revenue Service**

Number: **200521013**

Release Date: 5/27/2005

Index Number: 9100.00-00

Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:3

PLR-155245-04

Date:

February 16, 2005

Company:

Corp:

Shareholders:

Entity:

a:

Dear \_\_\_\_\_ :

This letter responds to a letter from your authorized representative dated October 18, 2004, as well as additional correspondence, submitted on behalf of Company, requesting an extension of time under §§ 301.9100-1 and 301.9100-3 of the Procedure and Administration Regulations for Company to elect under ' 1361(b)(3)(B) of the Internal Revenue Code to treat Corp as a qualified subchapter S subsidiary (QSub).

Company was formed as an Entity on a and filed Forms 8832 and 2553 (respectively, Entity Classification Election and Election by a Small Business

PLR-155245-04

Corporation) effective that same date, electing to be taxed as an S corporation. Also on a, the shareholders of Corp, as part of a plan of reorganization under § 368(a)(1)(F), contributed all of their stock in Corp to Company. Company intended that Corp be treated as a QSub effective a; it timely filed Form 8869 (Qualified Subchapter S Subsidiary Election) but inadvertently used an incorrect corporate name.

Section 1361(b)(3)(B) defines a QSub as a domestic corporation that is not an ineligible corporation (as defined in ' 1361(b)(2)), if 100 percent of the stock of such corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

A taxpayer makes a QSub election with respect to a subsidiary by filing Form 8869 with the appropriate service center.

Section 1.1361-3(a)(4) of the Income Tax Regulations provides that the election will be effective on the date specified on the election form or on the date the election is filed if no date is specified. The effective date specified on the election form cannot be more than two months and 15 days prior to the date of filing and cannot be more than 12 months after the date of filing.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in ' 301.9100-3 to make a regulatory election. Section 301.9100-1(b) defines a regulatory election as an election with a due date 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 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make a regulatory 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).

Based on the facts and representations submitted, we conclude that Company has satisfied the requirements of ' ' 301.9100-1 and 301.9100-3. Consequently, Company is granted an extension of 60 days from the date of this letter for electing

PLR-155245-04

under ' 1361(b)(3)(B) to treat Corp as a QSub, effective a. Within the extension period, Company must file Form 8869 with the appropriate service center. A copy of this letter should be attached to the election.

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the Code. Section 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

This ruling is directed only to the taxpayer on whose behalf it was requested. According to ' 6110(k)(3) of the Internal Revenue Code, this ruling may not be used or cited as precedent.

Sincerely,

/s/

HEATHER C. MALOY  
Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures: Copy of this letter  
Copy for ' 6110 purposes

cc: