

Section 1362(a) provides that a small business corporation can elect to be an S corporation.

Section 1362(b) provides guidance on when the S election becomes effective. If an S election is made within the first two and one-half months of a corporation's taxable year, then that corporation will be treated as an S corporation for the year in which the election was made. If the corporation makes an election after the first two and one-half months of a corporation's taxable year, then the corporation will generally not be treated as an S corporation until the following taxable year.

Section 1362(b)(5) provides that if no election is made pursuant to section 1362(a), or if the election is made after the date prescribed for making such an election, and the Secretary determined reasonable cause existed for the failure to timely make the election, then the Secretary can treat such an election as being timely made for that taxable year and effective as of the first day of that taxable year.

Conclusion

Based solely on the facts submitted and representations made, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective Date 1. Accordingly, provided that X otherwise qualifies as a subchapter S corporation and files an original Form 2553 along with a copy of this letter with the relevant Service Center within sixty (60) days from the date of this letter, then such an election will be treated as timely made for Date 1. Additionally, X and its shareholders should file amended returns consistent with X being an S corporation, as necessary, within sixty (60) days from the date of this letter.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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

Pursuant to the Power of Attorney on file with this office, we will send a copy of this ruling to your representative.

Sincerely,

Audrey W. Ellis
Senior Counsel, Branch 1
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy of this letter for section 6110 purposes