

Internal Revenue Service

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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:B03

PLR-138590-15

Date:

April 11, 2016

LEGEND

X =

Trust1 =

Trust2 =

Trust3 =

Trust4 =

Trust5 =

Trust6 =

Trust7 =

Trust8 =

Trust9 =

Trust10 =

Trust11 =

Trust12 =

Trust13 =

Trust14 =

A =

B =

C =

D =

E =

F =

G =

H =

I =

J =

N1 =

State =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

Date7 =

Date8 =

Date9 =

Date10 =

Dear _____ :

This responds to a letter dated November 25, 2015, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting a ruling under § 1362(f) of the Internal Revenue Code (the Code).

The information submitted states that X was incorporated under the laws of State on Date1. X elected to be an S corporation effective Date2. On Date3, A and B formed Trust2, Trust5, Trust6, and Trust9. On Date4, Trust1 sold N1 shares of X stock to each of Trust2, Trust6, and Trust9. In addition, on Date4, Trust4 sold N1 shares of X stock to Trust5. X represents that Trust2, Trust5, Trust6, and Trust9 meet the qualifications to be electing small business trusts (EBSTs), except that ESBT elections had not been properly made on their behalf.

In addition, the information submitted states that on Date5, C was born. In accordance with its terms, Trust2 was converted to Trust3 for the benefit of C on Date5. On Date6, D was born. In accordance with its terms, Trust6 was converted to Trust7 for the benefit of D on Date6. On Date7, E was born. In accordance with its terms, Trust7 was divided into two trusts, Trust7 and Trust8, for the benefit of D and E, respectively, and funded with equal shares of X stock. On Date8, F was born. In accordance with its terms, Trust9 was converted to Trust10 for the benefit of F on Date8. On Date9, G was born. In accordance with its terms, Trust10 was divided into two trusts, Trust10 and Trust11, for the benefit of F and G, respectively, and funded with equal shares of X stock. On Date10, in accordance with its terms, Trust5 was divided into three trusts, Trust12, Trust13, and Trust14, for the benefit of H, I, and J, respectively, and funded with equal shares of X stock. X represents that Trust3, Trust7, Trust8, Trust10, Trust11, Trust12, Trust13, and Trust14 meet the qualifications to be EBSTs, except that ESBT elections had not been properly made on their behalf.

X represents that X and all of X's shareholders have filed tax returns consistent with X being an S corporation since Date2. In addition, X represents that Trust2, Trust3, Trust5, Trust6, Trust7, Trust8, Trust9, Trust10, Trust11, Trust12, Trust13, and Trust14 have filed tax returns consistent with their treatment as EBSTs since their respective dates of formation and transfers of X stock to them. X further represents that the circumstances resulting in the termination of X's S corporation election were inadvertent and were not motivated by tax avoidance or retroactive tax planning. X and its shareholders have agreed to make such adjustments consistent with the treatment of X as an S corporation as may be required by the Secretary.

Section 1362(f) provides that if (1) an election under § 1362(a) by a corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain

shareholder consents or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in the ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the circumstances resulting in the ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation or (B) to acquire the shareholder consents, and (4) the corporation and each person who was a shareholder of the corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in the ineffectiveness or termination, the corporation will be treated as an S corporation during the period specified by the Secretary.

Based solely on the facts submitted and the representations made, we conclude that X's S corporation election terminated on Date4 as the result of the transfer of X stock to Trust2, Trust5, Trust6, and Trust9 as of that date. We further conclude that the termination of X's S corporation election on Date4 was inadvertent within the meaning of § 1362(f). In addition, had X's S corporation election not already terminated on Date4, X's S corporation election would also have terminated on Date5, Date6, Date7, Date8, or Date9, when shares of X were transferred to Trust3, Trust7, Trust8, Trust10, and Trust11, respectively, or on Date10 when shares of X were transferred to Trust12, Trust13, and Trust14. We hold that these subsequent terminating events were also inadvertent. Accordingly, pursuant to the provisions of § 1362(f), X will be treated as continuing to be an S corporation from Date4 and thereafter, provided that X's S corporation election was valid and not otherwise terminated under § 1362(d).

This ruling is contingent upon the trustees of Trust2, Trust5, Trust6, and Trust9 filing an ESBT election on behalf of each of these trusts, with an effective date of Date4; the trustees of Trust3, Trust7, Trust8, Trust10, and Trust11 filing an ESBT election on behalf of each of these trusts, with an effective date of Date5, Date6, Date7, Date8, and Date9, respectively; and the trustees of Trust12, Trust13, and Trust14 filing an ESBT election on behalf of each of these trusts, with an effective date of Date10. These elections must be filed with the appropriate service center within 120 days of the date of this ruling. A copy of this letter should be attached to each election.

If the above conditions are not met, then this letter ruling is null and void. Furthermore, if these conditions are not met, X must send a notification that its S election has terminated to the service center with which X's S election was filed.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed regarding X's eligibility to be an S corporation or the validity of its S corporation election. Further, no opinion is expressed as to whether Trust2, Trust3, Trust5, Trust6, Trust7, Trust8, Trust9, Trust10, Trust11,

Trust12, Trust13, and Trust14 qualify as ESBTs, or on the income or transfer tax consequences of the transfer of shares of X to Trust2, Trust3, Trust5, Trust6, Trust7, Trust8, Trust9, Trust10, Trust11, Trust12, Trust13, or Trust14.

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

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

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

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes