

The information submitted states that X, a corporation formed under the laws of State1 on Date1, elected to be an S corporation effective Date1. On Date2, Trust was formed by A under the laws of State2 as a revocable trust. Also on Date2, A transferred all of the shares of X to Trust. Trust has been the sole shareholder of X since that date. A died on Date3. X represents that Trust was an eligible S corporation shareholder pursuant to § 1361(c)(2)(A)(i) until A's death. After A's death, Trust was an eligible S corporation shareholder pursuant to § 1361(c)(2)(A)(ii) until Date4. X further represents that Trust is a trust that meets the qualifications to be an Electing Small Business Trust (EBST), except that no EBST election had been timely filed on the behalf of Trust.

X represents that X and all of X's shareholders have filed tax returns consistent with X being an S corporation since Date1. 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, in part, 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 Trust becoming an ineligible S corporation shareholder 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). 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 trustee of Trust filing an EBST election on behalf of Trust with an effective date of Date4. This election must be filed with the

appropriate service center within 120 days of the date of this letter ruling. A copy of this letter should be attached to the election.

In addition, this ruling is contingent on Trust filing within 120 days of the date of this letter an amended return and making adjustments necessary to properly reflect the treatment of Trust as an ESBT for the Year taxable year.

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 corporation election has terminated to the service center with which X's S corporation election was filed.

Except as specifically set forth above, we express no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we express no opinion regarding X's eligibility to be an S corporation or the validity of its S corporation election. Further, we express no opinion as to whether Trust qualifies as an ESBT.

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 ruling contained in this letter is 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 ruling request, 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

cc: