

Internal Revenue Service

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Person To Contact: _____, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-105215-17

Date:
June 21, 2017

LEGEND:

X =

Y =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

State =

Dear _____ :

This responds to a letter dated February 6, 2017, and additional information, submitted on behalf of X by its authorized representative, requesting relief pursuant to § 301.9100-3(a) of the Procedure and Administration Regulations for X to be granted an extension of time to elect to treat Y as a qualified subchapter S subsidiary (QSub) under § 1361(b)(3) of the Internal Revenue Code.

Facts

The information submitted states that X was incorporated under the laws of State on Date 1 and elected to be treated as an S corporation, effective Date 2. Y was incorporated under the laws of State on Date 3. X acquired all the stock of Y on Date 4. X represents that, at all times on and after Date 4, X has owned all of the outstanding stock of Y and intended to elect to treat Y as a QSub effective Date 4. However, due to inadvertence, X failed to file Form 8869, Qualified Subchapter S Subsidiary Election.

X represents that granting relief will not prejudice the interests of the Government and that it acted reasonably and in good faith.

Law and Analysis

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

Section 1361(b)(3)(B) defines a qualified subchapter S subsidiary as a domestic corporation which is not an ineligible corporation, if 100 percent of the stock of the corporation is owned by the S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations prescribes the time and manner for making an election to be classified a QSub. Section 1.1361-3(a)(4) provides that an election to treat an eligible subsidiary as a QSub may be effective up to two months and 15 days prior to the date the election is filed or not more than 12 months after the election is filed. The proper form for making the election is Form 8869, Qualified Subchapter S Subsidiary.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term "regulatory election" as an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be

granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and that (2) granting relief will not prejudice the interests of the Government.

Conclusion

Based solely upon the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of 120 days from the date of this letter to file Form 8869, Qualified Subchapter S Subsidiary Election, with the appropriate service center to elect to treat Y as a QSub effective Date 4. A copy of this letter should be attached to the Form 8869. A copy is enclosed for that purpose.

Except for the specific rulings above, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Internal Revenue Code. Specifically, we express no opinion regarding whether X otherwise qualifies as a small business corporation under § 1361, or whether Y otherwise meets the definition of a QSub under § 1361(b)(3)(B).

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.

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

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

John P. Moriarty
Acting Associate Chief Counsel
(Passthroughs & Special Industries)

Laura C. Fields

By:

Laura C. Fields
Senior Technician Reviewer, Branch 1
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

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