

Dear _____ :

This responds to a letter dated October 16, 2017, and subsequent correspondence submitted on behalf of X by X's authorized representative, requesting a ruling under §1362(f) of the Internal Revenue Code ("Code").

The information submitted states that X was incorporated under the laws of State1 on Date1 and elected to be an S corporation effective on Date2. Pursuant to an agreement dated Date3, A, B, C, D and E agreed to purchase interests in multiple entities, including X. In order to ease administrative concerns with respect to the ownership of X and the other entities, A, B, C, D and E joined together to form Y on Date4 under the laws of State2 with the intention that Y would purchase and hold the interests in the acquired entities, including X, on their behalf. Y is treated as a partnership for federal tax purposes. Y first acquired an interest in X on Date5. As a result of the acquisition of an interest in X by Y on Date5, X's S corporation election terminated under §1362(d)(2)(A) on that date because Y is an ineligible shareholder.

X represents that X and X's shareholders have filed tax returns consistent with X being an S corporation since Date5. 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 each person who was or is a shareholder of X at any time since Date5 agree to make any adjustments (consistent with the treatment of X as an S corporation) as may be required by the Secretary with respect to such period. X further represents X and Y have taken all of the necessary corrective steps to rectify the termination of X's S corporation election. Specifically, Y has distributed all of its stock in X to Y's owners, who are all eligible shareholders.

Section 1361(a)(1) provides that the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under § 1362(a) is in effect for such year.

Section 1361(b)(1)(B) provides that a "small business corporation" means a domestic corporation that is not an ineligible corporation and that does not have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual.

Section 1362(a)(1) provides that, except as provided in § 1362(g), a small business corporation may elect, in accordance with the provisions of § 1362, to be an S corporation.

Section 1362(d)(2) provides that an election under § 1362(a) shall be terminated whenever (at any time on or after the first day of the first taxable year for which the corporation is an S corporation) such corporation ceases to be a small business corporation. A termination of an S corporation election under § 1362(d)(2) is effective on or after the date of cessation.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation was terminated under § 1362(d)(2) or (3); (2) the Secretary determines that the circumstances resulting in such termination were inadvertent; (3) no later than a reasonable period of time after discovery of the circumstances resulting in the termination, steps were taken so that the corporation is a small business corporation; and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified under § 1362(f), agrees to make the adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary for that period, then, notwithstanding the circumstances resulting in such termination, the corporation shall 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 Date5 due to the purchase of stock of X by Y, an ineligible shareholder. We conclude that this terminating event was inadvertent within the meaning of § 1362(f). Pursuant to the provisions of § 1362(f), X will be treated as continuing to be an S corporation from Date5 and thereafter, unless X's S corporation election otherwise terminated under §1362(d) for reasons not stated in 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. Specifically, no opinion is expressed or implied regarding X's eligibility to be an S corporation or the validity of its S corporation election.

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 request for a ruling, 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, copies of this letter are being sent to your authorized representatives.

Sincerely,

Bradford R. Poston
Special Counsel
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: