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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-127266-18;
PLR-127267-18;
PLR-127268-18

Date:
November 13, 2018

Legend

W:

TIN:

X:

TIN:

Y:

TIN:

Z:

TIN:

State:

Date 1:

Date 2:

Date 3:

Date 4:

Date 5:

Date 6:

Year 1:

Year 2:

Year 3:

Year 4:

Dear :

This letter responds to a letter dated September 11, 2018, submitted on behalf of W, X and Y (each, a Corporation, and collectively, Corporations) requesting a ruling under § 1362(f) of the Internal Revenue Code (Code).

FACTS

W, X and Y were incorporated under the laws of State on Date 1, Date 2 and Date 3, respectively. W, X and Y made a timely S corporation election effective for each Corporation's respective date of incorporation.

Beginning in Year 1, the Corporations underwent a restructuring, whereby Z was formed as a single member limited liability company and elected to be treated as an S corporation. On Date 4, Z acquired a portion of the stock of Y. On Date 5, Z acquired a portion of the stock of each of W and X.

In Year 2, Z's member was informed that Z's ownership caused the termination of the Corporations' S corporation elections. Z's member relied on its tax and legal advisors to take corrective action, but no action was taken.

In Year 3, Z's member was informed by a new tax advisor that the termination caused by the Year 1 restructuring had not been corrected. The Corporations then underwent a restructuring in Year 4 on Date 6, whereby Z acquired all of the stock of W and X and transferred the stock of Y to eligible S shareholders. Z also intends to elect to treat W and X as qualified subchapter S subsidiaries (QSub) under § 1361(b)(3)(B)(ii) of the Code and § 1.1361-3 of the Income Tax Regulations effective Date 6.

The Corporations represent that the termination of the S corporation elections was inadvertent and was not the result of tax avoidance or retroactive tax planning. Further, the Corporations represent that no federal income tax return of Z's member has been filed inconsistent with valid S corporation elections having been made for the Corporations effective Date 1, Date 2 and Date 3. The Corporations and their shareholders also represent that they will agree to any adjustments consistent with the treatment of the Corporations as S corporations as a condition of obtaining relief that may be required by the Secretary.

LAW AND ANALYSIS

Section 1362(f) provides that if (1) an election under § 1362(a) or § 1361(b)(3)(B)(ii) by any 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) or § 1361(b)(3)(C), (2) the Secretary determines that the circumstances resulting in such 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 for which the election was made or the termination occurred is a small business corporation or a qualified subchapter S subsidiary, as the case may be, or (B) to acquire the required shareholder consents, and (4) the corporation for which the election was made or the termination occurred, and each person who was a shareholder in such corporation at any time during the period specified pursuant to § 1362(f), agrees to make such adjustments (consistent with the treatment of such corporation as an S corporation or a qualified subchapter S subsidiary, as the case may be) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation or a qualified subchapter S subsidiary, as the case may be during the period specified by the Secretary.

Based solely on the facts submitted and representations made, we conclude that Z's ownership caused inadvertent terminations of the Corporations' S corporation elections within the meaning of § 1362(f). We further hold that pursuant to the provisions of § 1362(f), W, X and Y will be treated as S corporations effective Date 1, Date 2 and Date 3, respectively, and continuing thereafter, provided the Corporations' S corporation elections were valid and provided that the elections were not otherwise terminated under § 1362(d). If W, X and Y or their shareholders fail to treat themselves as described above, this ruling is null and void.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of any aspect of the transactions described above. Specifically, no opinion is expressed regarding Z's or the Corporations' eligibility to be S corporations. In addition, no opinion is expressed as to whether W and X are eligible to elect to be treated as QSubs. Finally, no opinion is expressed as to whether any of the Corporations' shareholders are permissible shareholders for purposes of § 1361(b)(1)(B).

This ruling is directed only to the taxpayers requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Pursuant to a power of attorney on file, a copy of this letter is being sent to W's, X's and Y's authorized representative.

Sincerely,

Associate Chief Counsel

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Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of letter
Copy of letter for § 6110 purposes