

**Internal Revenue Service**

Department of the Treasury  
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Telephone Number:

Refer Reply To:  
CC:PSI:B01  
PLR-123696-21  
PLR-123697-21

Date:  
May 09, 2022

Legend

X =

Sub 1 =

Sub 2 =

Date =

1  
Date =

2  
State =

Dear :

This letter responds to a letter dated November 1, 2021, submitted on behalf of X by its authorized representative, requesting an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to file elections on behalf of Sub 1 and Sub 2 to be qualified subchapter S subsidiaries (“QSubs”) under § 1361(b)(3)(B)(ii) of the Internal Revenue Code (“Code”) and § 1.1361-3 of the Income Tax Regulations.

### Facts

According to the information submitted and representations within, X was incorporated under the laws of State on Date 1 and elected to be taxed as an S corporation as of that date.

X wholly owns Sub 1, which in turn, wholly owns Sub 2. X represents that it intended to elect to treat Sub 1 and Sub 2 as qualified subchapter S subsidiaries (QSubs) effective Date 2. However, X failed to timely file Form 8869, Qualified Subchapter S Subsidiary Election, for Sub 1 and Sub 2. X represents that it has filed its tax returns for all of the relevant tax years consistent with Sub 1 and Sub 2 being QSubs since Date 2, and that X has acted in good faith. Finally, X represents that granting relief will not prejudice the interests of the government.

### Law and Analysis

Section 1361(b)(3)(A) of the Internal Revenue Code provides that a QSub shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a QSub shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1361(b)(3)(B) defines a QSub as a domestic corporation which is not an ineligible corporation as defined in § 1361(b)(2), if 100 percent of the stock of the corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner of making a QSub election. Section 1.1361-3(a)(2) provides that an S corporation makes a QSub election with respect to a subsidiary by filing a Form 8869 with the appropriate service center. Section 1.1361-3(a)(4) provides that a QSub election cannot be effective more than two months and 15 days prior to the date of filing.

Section 1.1361-3(a)(6) provides that an extension of time to make a QSub election may be available under procedures applicable under §§ 301.9100-1 and 301.9100-3.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but not more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Code except subtitles E, G, H, and I.

Section 301.9100-2 provides an automatic extension of time for making certain elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

### Conclusion

Based solely on the facts submitted and the representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3 with respect to the QSub elections for Sub 1 and Sub 2. Accordingly, we grant X an extension of time of 120 days from the date of this letter to file a properly executed Form 8869 for each of Sub 1 and Sub 2 with the appropriate service center effective Date 2. A copy of this letter should be attached to the elections.

Except as expressly provided herein, we express or imply no opinion concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion as to whether X is a valid S corporation or whether Sub 1 or Sub 2 is eligible to be a QSub.

The rulings contained in this letter are based upon information and representations submitted by X and accompanied by a penalty of perjury statement executed by the 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.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

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

Sincerely,

Holly Porter  
Associate Chief Counsel  
(Passthroughs & Special Industries)

by: /s/  
Joyce C. Spies  
Senior Technician Reviewer, Branch 1  
(Passthroughs & Special Industries)

Enclosure (1)

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cc: