

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **202325001**

Release Date: 6/23/2023

Index Number: 9100.00-00, 1361.05-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:01
PLR-118119-22

Date:
March 27, 2023

LEGEND

X =

Sub =

Date 1 =

Date 2 =

State =

Dear :

This responds to a letter dated August 25, 2022, submitted on behalf of X by X's authorized representatives, requesting relief pursuant to § 301.9100-3 of the Procedure and Administration Regulations that X be granted an extension of time to elect to treat Sub as qualified subchapter S subsidiary (QSub) under section § 1361(b)(3) of the Internal Revenue Code (the Code).

FACTS

According to the information submitted and representations within, X was organized on Date 1, under the laws of State, and elected to be treated as an S corporation effective Date 2.

As of Date 2, X owned all the outstanding stock of Sub and intended to elect to treat Sub as a QSub effective Date 2. However, due to inadvertence, X failed to file Form 8869, Qualified Subchapter S Subsidiary Election.

LAW AND ANALYSIS

Section 1361(b)(3)(A) generally 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, if 100 percent of the stock of the corporation is owned 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 prescribes the time and manner for making an election to be classified as a QSub. Section 1.1361-3(a)(4) provides that an election 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 Election.

Section 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 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 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), a request for relief will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the Government.

CONCLUSION

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

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we express or imply no opinion concerning whether X is a valid S corporation, or whether Sub is eligible to be a QSub.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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, a copy of this letter is being sent to the taxpayer's authorized representatives.

Sincerely,

Holly Porter
Associate Chief Counsel
(Passthroughs and Special Industries)

Jennifer N. Keeney
Senior Counsel
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosure
Copy for § 6110 purposes

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cc: