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Washington, DC 20224

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Telephone Number:

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PLR-113020-24

Date:
July 26, 2024

Dear _____ :

This letter supplements and modifies PLR-119806-23, issued May 09, 2024 (Previous Letter).

Paragraphs 2 and 3 on page 3 of the Previous Letter are modified as follows:

X represents that Trust 2, Trust 3, Trust 4, Trust 9, Trust 10, and Trust 11 were eligible to make Electing Small Business Trust (ESBT) elections under § 1361(e)(3), effective Date 3 and Date 4, respectively. However, the trustees failed to make ESBT elections for the trusts to be eligible S corporation shareholders. Thus, Trust 2, Trust 3, and Trust 4 became ineligible shareholders of X on Date 3 and Trust 9, Trust 10, and Trust 11 became ineligible shareholders of X on Date 4. Accordingly, the failure to make ESBT elections caused X's S election to terminate on Date 3 and if it had not already terminated it would have terminated on Date 4.

X represents it filed income tax returns consistent with having an election to be treated as an S corporation for all taxable years since its formation. X represents that Trust 2, Trust 3, Trust 4, Trust 9, Trust 10, and Trust 11 have always met the requirements of an ESBT within the meaning of § 1361(e), except that the trustees of did not make a timely ESBT election under § 1361(e)(3). It is represented that failure to file ESBT elections were inadvertent and not motivated by tax avoidance or retroactive tax planning. X and each of its shareholders agree to make any adjustments required by the Secretary as a condition of obtaining relief under the inadvertent termination rule as provided under § 1362(f).

Paragraphs 1, 2, and 5 on page 5 of the Previous Letter are modified as follows:

Based solely on the facts submitted and representations made, we conclude that X's S corporation election terminated on Date 3 because the trustees of Trust 2, Trust 3, and Trust 4 failed to timely make ESBT elections under § 1361(e)(3). Further, X's S corporation election would have terminated on Date 4 because the trustees of Trust 9, Trust 10, and Trust 11 failed to timely make ESBT elections under § 1361(e)(3). However, the ineffectiveness of X's S corporation election was inadvertent within the meaning of § 1362(f). Accordingly, X shall be treated as an S corporation from Date 3 and thereafter, provided its S corporation election is not otherwise terminated under § 1362(d).

This letter ruling is subject to the conditions that within 120 days from the date of this letter (1) the trustees of Trust 2, Trust 3, Trust 4, Trust 9, Trust 10, and Trust 11 must file ESBT elections with respect to Trust 2, Trust 3, Trust 4, Trust 9, Trust 10, and Trust 11, effective Date 3 or Date 4, as appropriate, with the appropriate service center and (2) X and its shareholders file any necessary original or amended returns consistent with the relief granted in this letter. A copy of this letter should be attached to the ESBT election and any original or amended returns.

Except as specifically ruled above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code and the regulations thereunder, including whether X was otherwise a valid S corporation or whether Trust 2, Trust 3, Trust 4, Trust 9, Trust 10, and Trust 11 are valid ESBTs within the meaning of § 1361(e)(3).

Because of the amendments made to the Previous Letter by this supplemental ruling letter, Taxpayer is granted an extension of time of 60 days from the date of this supplemental ruling letter to file the elections and make the payments referenced in the Previous Letter.

Sincerely,

Robert D. Alinsky
Branch Chief, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures

Copy for § 6110 purposes

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Cc: