

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:B02 - PLR-112356-02

Date:

April 16, 2002

X =

A =

D1 =

Year 1 =

D2 =

Year 2 =

State =

Dear :

This responds to a letter dated February 12, 2002, and subsequent correspondence, written on behalf of X, by X's authorized representative, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

The information submitted states that X is a single member limited liability company organized pursuant to the laws of State on D1 of Year 1. X elected to be treated as an association taxable as a corporation effective on D2 of Year 2 by filing a Form 8832, Entity Classification Election. A, X's single member and managing member, represents that he intended for X to be treated as an S corporation for federal tax purposes as of D2 of Year 2. However, a Form 2553, Election by a Small Business Corporation, was not filed for X for Year 2. X filed Form 1120S, U.S. Income Tax Return for an S Corporation, for its Year 2 taxable year.

Section 1362(b)(5) provides that if: (A) an election under § 1362(a) is made for any taxable year after the date prescribed by § 1362(b) for making such election for such taxable year or no such election is made for any taxable year, and (B) the Secretary determines that there was reasonable cause for the failure to timely make

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such election, the Secretary may treat such an election as timely made for such taxable year.

Based solely on the facts and the representations submitted, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation for X's Year 2 taxable year. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 with the appropriate service center effective for its Year 2 taxable year, within 60 days following the date of this letter, then such election will be treated as timely made for X's Year 2 taxable year. A copy of this letter should be attached to the Form 2553.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code, including whether X was or is a small business corporation under § 1361(b).

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely yours,
Matthew Lay
Senior Technician Reviewer
Branch 2
Office of the Associate
Chief Counsel
(Passthroughs and Special
Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes