

Internal Revenue Service

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:PSI:B1-PLR-121676-03
Date:
August 1, 2003

Legend:

X =

Y =

State =

D1 =

Dear

This letter responds to the letter dated February 11, 2003, and related correspondence, written on behalf of X, requesting an extension of time under §§301.9100-1 through 301.9100-3 of the Procedure and Administration Regulations to file an election to treat its wholly owned subsidiary, Y, as a qualified subchapter S subsidiary (QSub) under §1361(b)(3) of the Internal Revenue Code.

FACTS

According to the information submitted, X and Y were incorporated under the laws of State. On D1, Y transferred all of its stock to X in an effort to restructure the business. X intended to file an election to treat Y as a QSub as of D1, but X inadvertently failed to timely file the election effective D1.

LAW AND ANALYSIS

Section 1361(b)(3)(B) defines a QSub as a domestic corporation that 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)(4) of the Income Tax Regulations provides that the election will be effective on the date specified on the election form or on the date the QSub election is filed if no date is specified. The effective date specified on the election cannot be more than two months and 15 days prior to the date of filing and cannot be more than 12 months after the date of filing.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §301.9100-3 to make a regulatory election. Section 301.9100-1(b) defines a regulatory election to mean 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.

Requests for relief under §301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the Government. §301.9100-3(a).

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. Accordingly, X is granted an extension of time of sixty (60) days from the date of this letter to elect to treat Y as a QSub, effective as of D1. The election should be made by filing Form 8869, Qualified Subchapter S Subsidiary Election, with the appropriate service center. A copy of this letter should be attached to the election.

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 Internal Revenue Code. Specifically, no opinion is expressed concerning whether X is a valid S corporation or whether Y is a valid 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.

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In accordance with the Power of Attorney on file with this office, a copy of this letter is being mailed to X.

Sincerely,

Heather C. Maloy
Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes