

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

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Date:

May 07, 2004

Trust =

D1 =

D2 =

D3 =

Dear :

This letter responds to your letter dated December 4, 2003, and subsequent correspondence, submitted on behalf of Trust, requesting rulings under § 1361 of the Internal Revenue Code that Trust be allowed to revoke its electing small business trust (ESBT) election and elect to be treated as a qualified subchapter S trust (QSST).

The information submitted states that Trust was created D1 and made an initial election to be treated as a QSST. The trustee of Trust elected to treat Trust as an ESBT, effective D2. The trustee and beneficiary of Trust request to revoke Trust's ESBT election and make an election to be treated as a QSST, effective D3, which is within 36 months of D2.

Section 1.1361-1(m)(6) of the Income Tax Regulations provides that an ESBT election may be revoked only with the consent of the Commissioner. The application for consent to revoke the election must be submitted to the Internal Revenue Service in the form of a private letter ruling request under the appropriate revenue procedure.

Section 1.1361-1(m)(7) provides the requirements for a trust that seeks to convert from an ESBT to a QSST to receive automatic consent to revoke the ESBT election. Section 1.1361-1(m)(7)(iii) requires that the trust has not converted from a

QSST to an ESBT within the 36-month period preceding the effective date of the new QSST election.

Based on the facts and representations submitted, we conclude that Trust may revoke its ESBT election and elect to be treated as a QSST effective D3. The beneficiary of Trust should file a QSST election effective D3 which meets the requirements of § 1361(d) and the regulations thereunder for each S corporation the stock of which is held by Trust. The elections should be filed with the appropriate Internal Revenue service center within 60 days of the date of this letter. A copy of this letter should be attached to each 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 Code, including whether Trust is otherwise eligible to be an ESBT or QSST.

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

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to the trustee of Trust.

Sincerely,

J. THOMAS HINES
Chief, Branch 2
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures: 2

Copy of this letter

Copy for § 6110 purposes