

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2 – PLR-152221-05

Date:

January 23, 2006

Legend

X =

A =

Date 1 =

Date 2 =

Dear

This letter responds to a letter dated October 5, 2005, and subsequent correspondence, submitted on behalf of X, by X's authorized representative, requesting relief under § 1362(b)(5) of the Internal Revenue Code.

The information submitted states that X was incorporated on Date 1. The stock of X was issued and X's assets were acquired on Date 2. A, the president of X, represents that the shareholders of X intended for X to be an S corporation effective Date 2. X's Form SS-4, Application for Employer Identification Number, and the Action of the Shareholders of X Taken by Unanimous Written Consent in Lieu of a Meeting, documents this intent. However, no Form 2553, Election by a Small Business Corporation, was timely filed for X.

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

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

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) of the Code 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 forwarded to X's authorized representative and X's second authorized representative.

Sincerely,

J. Thomas Hines  
Chief, Branch 2  
Associate Chief Counsel  
(Passthroughs and Special Industries)

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