

Number: **200637015**  
Release Date: 9/15/2006  
**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Index Number: 1362.01-03

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B01  
PLR-116498-06  
Date: June 7, 2006

Legend  
X =

Date1 =

Date2 =

State =

Dear :

This letter responds to your letter dated February 27, 2006, submitted on behalf of X, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

#### FACTS

The information submitted states that X was incorporated on Date1 under the laws of State and began business on Date2. The shareholder of X intended that X be treated as an S corporation effective Date2 but the election to be treated as an S corporation was not timely filed.

#### LAW AND ANALYSIS

Section 1362(a) provides that a small business corporation may elect to be an S corporation.

Section 1362(b) provides the rule on when an S election will be effective. If an S election is made within the first two and one-half months of a corporation's taxable year, then the corporation will be treated as an S corporation for the year in which the election

is made. If the election is made after the first two and one-half months of a corporation's taxable year, then the corporation will not be treated as an S corporation until the taxable year after the year in which the S election is made.

Section 1362(b)(5) provides that if no election is made pursuant to § 1362(a), or, if made, the election is made after the date prescribed for making such an election, and the Secretary determines there was reasonable cause for the failure to timely make the election, then the Secretary may treat such an election as timely made for such taxable year and effective as of the first day of that tax year.

X did not file a timely election to be treated as an S corporation under § 1362(a) effective Date2. X has, however, established reasonable cause for not making a timely election and is entitled to relief under § 1362(b)(5).

### CONCLUSION

Based solely on the facts submitted and representations made, and provided that X otherwise qualifies as a subchapter S corporation, we conclude that X will be recognized as an S corporation effective Date2. Within 60 days from the date of this letter, X should submit a properly completed Form 2553, with a copy of this letter attached, to the relevant service center.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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 mailed to your authorized representative.

Sincerely,

Dianna K. Miosi  
Chief, Branch 1  
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purpose