

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:PSI:2 - PLR-142237-01

Date:

January 24, 2002

X =

A =

D1 =

D2 =

Dear :

This letter responds to a letter dated July 20, 2001, and subsequent correspondence, submitted on behalf of X, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

The information submitted states that X was incorporated on D1. A, the president and sole shareholder of X, represents that X was intended to be an S corporation effective D2. However, no Form 2553, Election by a Small Business Corporation, was timely filed for X.

Section 1362(b)(5) of the Code 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 the representations submitted, and provided that X otherwise qualifies as an S corporation, we conclude that X will be treated as an S corporation effective D2. An original Form 2553 effective D2, along with a copy of this letter, must be forwarded to the relevant service center within the earlier of 60 days from the date of this letter or the expiration of the applicable period of limitations on assessment for any affected income tax returns. In addition, X and A must file all amended returns required as a result of the treatment of X as an S corporation effective

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D2 prior to the expiration of the applicable period of limitations on assessment. This ruling shall be null and void should X or A fail to comply with the requirements of this paragraph.

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) of the Code.

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.

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  
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