

**Internal Revenue Service**

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B02

PLR-154317-05

Date:

February 22, 2006

X =

A

D1 =

Dear

This responds to a letter dated October 17, 2005, submitted on behalf of X by its authorized representatives, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

A, as president of X, represents that X was incorporated on D1 and was intended to be an S corporation effective D1. However, no Form 2553, Election by a Small Business Corporation, was timely filed for X.

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.

Section 1362(b)(2) provides in relevant part that 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. Under § 1362(b)(3), however, if an S election is made after the first two and one-half months of

a corporation's taxable year, then that corporation will not be treated as an S corporation until the next taxable year after the year in which the S election is filed.

Section 1362(b)(5) of the Code provides that if: (1) no § 1362(a) election is made for any taxable year, and (2) 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 and § 1362(b)(3) shall not apply.

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

Based solely on the facts and the representations submitted, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective D1. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 effective D1, 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 D1.

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,

Beverly Katz  
Senior Technician Reviewer, Branch 2  
Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures: 2

Copy of this letter

Copy for § 6110 purposes

cc: