

Internal Revenue Service

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Washington, DC 20224

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Person To Contact:
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Telephone Number:

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CC:PSI:B3
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LEGEND

S Corporation =

A =

State =

Dear :

This letter responds to a letter dated February 6, 2007, submitted on behalf of S Corporation, in which a ruling is requested under § 1362 of the Internal Revenue Code.

FACTS

S Corporation was formed as a corporation in State and elected to be treated as an S corporation under § 1362(a). A is the sole shareholder of S Corporation.

A proposes to form a limited liability company (LLC) in which A will be the sole member of the LLC. A will contribute A's stock in S Corporation and other property to the LLC in exchange for all of the interests in LLC. The LLC will be treated as a disregarded entity under the default classification rule of § 301.7701-3(b)(1)(ii) of the Procedure and Administration Regulations.

S Corporation requests a ruling that, because the LLC will be disregarded as an entity separate from A, and A will continue to be treated as the sole shareholder of S Corporation for federal tax purposes, A's contribution of S Corporation stock and other property to the LLC in exchange for a 100% membership interest in the LLC will

not terminate the S corporation election of S Corporation because of an ineligible shareholder under § 1361(b)(1)(B).

LAW AND ANALYSIS

Section 1361(a)(1) provides that, in general, for purposes of Title 26, the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under § 1362(a) is in effect for such year.

Section 1361(b)(1)(B) provides that, for purposes of subchapter S, the term "small business corporation" means a domestic corporation which is not an ineligible corporation and which does not have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual.

Section 1362(d)(2)(A) provides that that an S corporation election shall be terminated whenever (at any time on or after the 1st day of the 1st taxable year for which the corporation is an S corporation) such corporation ceases to be a small business corporation. Section 1362(d)(2)(B) provides that any termination shall be effective on and after the date of cessation.

Section 301.7701-2(a) provides, in part, that a business entity with only one owner is classified as a corporation or is disregarded; if the entity is disregarded, its activities are treated in the same manner as a sole proprietorship, branch, or division of the owner.

Section 301.7701-3(a) provides, in part, that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes as provided in § 301.7701-3. An eligible entity with a single owner can elect to be classified as an association or to be disregarded as an entity separate from its owner.

Section 301.7701-3(b)(1)(ii) provides that, except as provided in § 301.7701-3(b)(3), unless the entity elects otherwise, a domestic eligible entity is disregarded as an entity separate from its owner if it has a single owner.

CONCLUSION

Based solely on the facts and representations submitted, we conclude that A's contribution of S Corporation stock and other property to the LLC in exchange for a 100% membership interest in the LLC will not terminate the S corporation election of S Corporation.

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. Specifically, no opinion is expressed regarding whether S Corporation is otherwise eligible to be an S corporation.

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 a power of attorney on file with this office, a copy of this letter is being sent to the authorized representative of S Corporation.

Sincerely,

/s/

Tara P. Volungis
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

A copy of this letter

A copy for § 6110 purposes