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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:BR01
PLR-142364-07

Date:
February 28, 2008

Legend:

X =

LP =

A =B =C =

Date 1 =

Date 2 =

Date 3 =

Year 1 =

State =

Dear _____ :

This letter responds to your request, dated September 14, 2007, submitted on behalf of X, requesting relief for an inadvertent termination under section 1362(f) of the Internal Revenue Code.

Facts

Based solely on the materials submitted and representations made within, we understand the relevant facts to be as follows. X was incorporated on Date 1 in accordance with the laws of State. X elected to be treated as an S corporation effective Date 2. On Date 3, based on the advice of counsel, all of the shares of X were transferred to LP. All of the partners of LP, A, B, and C (now deceased), reported their pro-rata share of all income, gain, loss and deduction in the same amount as if they held stock in the S corporation instead of LP. In Year 1, the owners of LP engaged the services of a new accountant. The accountant determined that the transfer of the shares of X to LP terminated X's S election. Based on the accountant's advice, LP distributed all of its X stock to the partners of LP (A and B) in Year 1.

X represents that the termination of X's S election was inadvertent and was not motivated by tax avoidance or retroactive tax planning. Further, since Date 3, the partners of LP reported their pro-rata share of all income, gain, loss and deduction in the same amount as if they held the stock in the S corporation. X and its shareholders have agreed to make such adjustments as the Service may require with respect to all periods since Date 3.

Law and Analysis

Section 1361(a)(1) defines a "S corporation" as a small business corporation for which an election under section 1362(a) is in effect for the taxable year.

Section 1361(b)(1)(B) provides that a "small business corporation" means a domestic corporation that is not an ineligible corporation and does not have a shareholder a person (other than an estate, a trust described in section 1361(c)(2), or an organization described in section 1361(c)(6)) who is not an individual.

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

Section 1362(f) provides that if (1) an election under section 1362(a) by an corporation was terminated under section 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in such termination were inadvertent, (3) no

later than a reasonable period of time after discovery of the event resulting in the ineffectiveness, steps were taken (A) so that the corporation is a small business corporation, or (B) to acquire the required shareholder consents, and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified pursuant to section 1362(f), agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period, then, notwithstanding the circumstances resulting in such ineffectiveness, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Conclusion

Based solely on the facts as presented in the materials submitted and the representations made within those materials, we conclude that X's S corporation election terminated on Date 3 when the shares of X were transferred to LP, an ineligible shareholder. We conclude, however, that this termination was inadvertent within the meaning of section 1362(f). Accordingly, pursuant to the provisions of section 1362(f), X will be treated as an S corporation effective D3 and thereafter, provided that X's election to be an S corporation was not otherwise invalid or terminated under section 1362(d).

Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the above described facts under any other provision of the Code.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office, a copy of this latter ruling will be sent to your authorized representatives.

Sincerely,

/s/

Dianna K. Miosi

Chief, Branch 1

(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for section 6110 purposes

cc: