

## Internal Revenue Service

Number: **200845017**  
Release Date: 11/7/2008

Index Number: 1361.05-00, 9100.00-00

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-107952-08  
Date:  
July 18, 2008

### Legend

X =

Sub1 =

Sub2 =

Sub3 =

Sub4 =

Sub5 =

State =

Date1 =

Date2 =

Date3 =

Date4 =

Date5 =

Date6 =

Dear :

This responds to a letter dated February 19, 2008, and subsequent correspondence, submitted on behalf of X by its authorized representative, requesting relief pursuant to § 301.9100-3(a) of the Procedure and Administration Regulations that X be granted an extension of time to elect to treat Sub1, Sub2, Sub3, Sub4, and Sub5 as qualified subchapter S subsidiaries (QSubs) under § 1361(b)(3) of the Internal Revenue Code.

The information submitted states that X was incorporated under the laws of State on Date1, and elected to be treated as an S corporation effective Date1. Sub1 was incorporated on Date2. Sub2 was incorporated on Date3. Sub3 was incorporated on Date4. Sub4 was incorporated on Date1. X acquired all of the stock of Sub1, Sub2, Sub3 and Sub4 on Date5. On Date6, Sub5 was incorporated and all of its stock was acquired by X on that date. X intended to elect to treat its wholly owned subsidiaries as QSubs effective as of the respective dates of acquisition of each subsidiary. However, due to inadvertence, X failed to file Form 8869, Qualified Subchapter S Subsidiary Election, on behalf of each subsidiary.

X represents that it and the subsidiaries have filed tax returns for all of the relevant tax years consistent with the tax treatment of the subsidiaries as QSubs from their respective dates of formation.

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

Section 1361(b)(3)(B) defines a qualified subchapter S subsidiary as a domestic corporation which is not an ineligible corporation, if 100 percent of the stock of the corporation is owned by the S corporation, and the S corporation elects to treat the corporation as a qualified subchapter S subsidiary.

Section 1.1361-3(a) of the Income Tax Regulations prescribes the time and manner for making an election to be classified a qualified subchapter S subsidiary. Section 1.1361-3(a)(4) provides that an election to treat an eligible subsidiary as a qualified subchapter S subsidiary may be effective up to two months and 15 days prior to the date the election is filed or not more than 12 months after the election is filed. The proper form for making the election is Form 8869, Qualified Subchapter S Subsidiary.

Section 301.9100-1(c) provides that the Commissioner may grant a reasonable extension of time to make a regulatory election, or a statutory election (but no more than 6 months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue Code except subtitles E, G, H, and I. Section 301.9100-1(b) defines the term “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and that (2) granting relief will not prejudice the interests of the Government.

Based solely upon the information submitted and the representations made, we conclude that the requirements of § 301.9100 have been satisfied. Accordingly, X is granted an extension of time of 60 days from the date of this letter to file Form 8869, Qualified Subchapter S Subsidiary Election, with the appropriate service center to elect to treat the following corporations as qualified subchapter S subsidiaries: Sub1, Sub2, Sub3 and Sub4 effective Date5; and Sub5 effective Date6. A copy of this letter should be attached to the Form 8869. A copy is enclosed for that purpose.

Except for the specific rulings above, we express or imply no opinion concerning the federal income tax consequences of the facts of this case under any other provision of the Internal Revenue Code. Specifically, we express no opinion regarding whether X otherwise qualifies as a small business corporation under § 1361, or whether Sub1, Sub2, Sub3, Sub4, and Sub5 otherwise meet the definition of qualified subchapter S subsidiary under § 1361(b)(3)(B).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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 sent to X's authorized representative.

Sincerely,

William P. O'Shea  
Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy for § 6110 purposes

cc: