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From:

Sent: Wednesday, July 22, 2009 12:01:59 PM

To:

Cc:

Subject: RE: §1362(d)(3) and §1375(d) Excess Net Passive Investment Income

Relief for inadvertent termination of an S corporation election under § 1362(f) and waiver of the tax on excess passive investment income under § 1375(d) are separate determinations under the jurisdiction of different offices of the Internal Revenue Service. A grant of waiver under § 1375(d) and § 1.1375-1(d) does not waive any termination that may have taken place under § 1362(d)(3), and to cure such a termination, the taxpayer would have to request relief under § 1362(f) by submitting a private letter ruling request which satisfies all the specific requirements of § 1.1362-4, as well as the general requirements for private letter rulings under Revenue Procedure 2009-1 (or its successors).

Please contact me with any additional questions.