

## Internal Revenue Service

Number: **201041026**

Release Date: 10/15/2010

Index Number: 1362.01-03, 9100.22-00

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:02

PLR-107298-10

Date:

June 16, 2010

Trust =

X =

Date 1 =

Date 2 =

Year 1 =

Year 2 =

Dear :

This letter responds to your letter dated February 1, 2010, and subsequent correspondence, submitted on behalf of Trust, requesting a ruling under § 1361 of the Internal Revenue Code that the Service consent to revoke Trust's electing small business trust (ESBT) election as well as a ruling under to § 301.9100-3 of the Procedure and Administration Regulations that the Service grant an extension of time for Trust to make a qualified Subchapter S trust (QSST) election under § 1361(d)(2).

The information submitted states that Trust is a shareholder of X, and that Trust made an election to be treated as a QSST effective Date 1. Trust was treated as a QSST for tax years beginning on Year 1 and ending on Year 2. Effective Date 2, however, the trustee of Trust filed an election to convert Trust from a QSST to an ESBT. The trustee now requests that the Service consent to revoke Trust's ESBT election as of Date 2 and that it grant Trust an extension of time to re-elect to be treated as a QSST effective Date 2.

Section 1.1361-1(m)(6) of the Income Tax Regulations provides that an ESBT election may be revoked only with the consent of the Commissioner. The application for consent to revoke the election must be submitted to the Internal Revenue Service in the

form of a letter ruling request under the appropriate revenue procedure.

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.

Sections 301.9100-1 through 301.9100-3 provide the standards the Commissioner will use to determine whether to grant an extension of time to make the election. 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 (2) granting relief will not prejudice the interests of the government.

Based on the facts submitted and the representations made, we conclude that Trust may revoke its ESBT election effective Date 2. We further conclude that the requirements of § 301.9100-3 have been satisfied. As a result, Trust is granted an extension of time of 120 days from the date of this letter to file a QSST election for Trust effective Date 2. A copy of this letter should be attached to the Form 2553. A copy is enclosed for that purpose.

Except as expressly provided herein, we express or imply no opinion concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

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 X's authorized representatives.

Sincerely,

Associate Chief Counsel  
(Passthroughs and Special Industries)

By:

\_\_\_\_\_  
Richard T. Probst  
Branch Reviewer, Branch 2  
Office of Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures (2):

Copy of this letter  
Copy for § 6110 purposes

cc: