

## Internal Revenue Service

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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:B01

PLR-143298-11

Date:

March 13, 2012

### Legend:

X =

A =

B =

State =

D1 =

D2 =

Dear :

This responds to the letter dated October 14, 2011, and related correspondence, submitted on behalf of X, requesting an extension of time under § 301.9100-1 and § 301.9100-3 of the Procedure and Administration Regulations for X to elect to treat A and B as Qualified subchapter S Subsidiaries (QSubs) under § 1361(b)(3) of the Internal Revenue Code (Code).

### **FACTS**

The information submitted states that X was incorporated under the laws of State on D1. X elected to be treated as an S corporation for federal tax purposes, effective D1. On D2, X purchased all of the stock in A and B, both also S corporations. X intended to treat A and B as QSubs, effective D2. Due to inadvertence, however, X failed to timely file Form 8869s, Qualified Subchapter S Subsidiary Election.

### **LAW AND ANALYSIS**

Section 1361(b)(3)(A) provides that, a QSub shall not be treated as a separate corporation, and all assets, liabilities, and items of income, deduction, and credit of a QSub shall be treated as assets, liabilities, and such items (as the case may be) of the S corporation.

Section 1361(b)(3)(B) defines a QSub as any domestic corporation which is not an ineligible corporation (as defined in § 1361(b)(2)), in which 100 percent of the stock of such corporation is held by the S corporation, and the S corporation elects to treat such corporation as a QSub.

Section 1.1361-3(a)(4) of the Income Tax Regulations provides that a QSub election will be effective on the date specified on the election form or on the date the election form is filed if no date is specified. The effective date specified on the form cannot be more than two months and 15 days prior to the date of filing and cannot be more than 12 months after the date of filing. A taxpayer makes a QSub election with respect to a subsidiary by filing Form 8869 with the appropriate service center.

Section 1.1361-3(a)(6) provides that an extension of time to make a QSub election may be available under the procedures applicable under §§ 301.9100-1 and 301.9100-3.

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

Sections 301.9100-1 through 301.9100-3 provide the standards that the Commissioner will use to determine whether to grant an extension of time to make an election. § 301.9100-1(a). Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions of time for regulatory elections that do not meet the requirements of § 301.9100-2.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government. § 301.9100-3(a).

### CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time of 120 days from the date of this letter to elect to treat A and B as QSubs, effective D2. The elections should be made by filing a Form 8869 for each entity with the appropriate service center. A copy of this letter should be attached to each of the elections.

Except as specifically ruled upon above, no opinion is expressed or implied concerning the federal tax consequences of facts described under any other provision of the Internal Revenue Code. Specifically, we express or imply no opinion concerning whether X is a valid S corporation, or whether each A or B is eligible to be a QSub.

This ruling is directed only to the taxpayer who requested 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 ruling will be sent to your authorized representative.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

Joy C. Spies

By: Joy C. Spies  
Acting Senior Technician Reviewer, Branch 1  
Office of Associate Chief Counsel  
(Passthroughs and Special Industries)

Enclosures (2)

Copy of this letter  
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