

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
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Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B03
PLR-109648-14

Date:
June 9, 2014

X =

State =

D1 =

D2 =

D3 =

Trust =

Beneficiary =

Dear :

This responds to a letter dated February 4, 2014, submitted on behalf of X by its authorized representative, requesting a ruling under § 1362(f) of the Internal Revenue Code.

The information submitted states that X was incorporated in State on D1. As of D2, X's shareholders included Trust. X intended to be treated as an S corporation effective D3. To this end, X timely elected subchapter S status, effective D3, by filing Form 2553, Election by a Small Business Corporation, with the Service. However, this election did not include Trust's Qualified Subchapter S Trust ("QSST") election which must be signed by Beneficiary, the Trust's beneficiary. Additionally, Beneficiary did not properly consent, on behalf of Trust, to X's election to be an S corporation. Beneficiary and Trust represent that they have filed income tax returns consistent with the treatment of X as an S corporation and Trust as a QSST.

X represents that the invalid election was not motivated by tax avoidance or retroactive tax planning. X and its shareholders have agreed to make any adjustments that the Commissioner may require, consistent with the treatment of X as an S corporation.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation (A) was not effective for the taxable year for which made (determined without regard to § 1362(b)(2)) by reason of a failure to meet the requirements of § 1361(b) or to obtain shareholder consents or (B) was terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in the ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the event resulting in the ineffectiveness or termination, 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 § 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.

Based solely on the facts submitted and the representations made, we conclude that X's S corporation election was ineffective on D3. We conclude, however, such ineffectiveness was inadvertent within the meaning of § 1362(f). We further hold that, pursuant to the provisions of § 1362(f), X will be treated as an S corporation from D3 and thereafter, provided that X's election was not otherwise terminated under § 1361(d).

If X or its shareholders fail to treat themselves as described above, this letter ruling shall be null and void. This ruling is conditioned on Trust filing a new QSST election effective D3 with the appropriate service center within 120 days of this letter. A copy of this letter should be attached to the QSST election.

Except as specifically ruled above, we express no opinion concerning the federal tax consequences of the transactions described above under any other provisions of the Code.

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

Pursuant to a power of attorney on file with this office, a copy of this letter is being forwarded to X's authorized representative.

Sincerely,

Bradford R. Poston
Senior Counsel, Branch 3
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes

cc: