

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:

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-146340-14

Date:
March 26, 2015

LEGEND:

X =

Trust 1 =

Trust 2 =

Trust 3 =

State =

Date 1 =

Date 2 =

Date 3 =

Dear

This responds to a letter dated December 19, 2014, submitted on behalf of X by its authorized representatives, requesting a ruling under § 1362(f) of the Internal Revenue Code.

Facts

The information submitted states that X was incorporated under the laws of State. Effective Date 1, X elected to be taxed as an S corporation. On Date 2, shares of X stock were transferred to Trust 1, Trust 2 and Trust 3. Also, on Date 3, additional shares of X were transferred to Trust 1, Trust 2 and Trust 3. X represents that Trust 1, Trust 2 and Trust 3 meet the requirements to be treated as qualified subchapter S trusts (QSSTs) as described in § 1361(d) as of Date 2, except the respective income beneficiaries of Trust 1, Trust 2 and Trust 3 failed to make the required election under § 1361(d)(2). Therefore, Trust 1, Trust 2 and Trust 3 were not eligible S corporation shareholders and as a result, X's S corporation election terminated on Date 2. Furthermore, X's S corporation election would have terminated on Date 3 (if it had not already terminated on Date 2) due to the additional transfers of X stock to Trust 1, Trust 2 and Trust 3.

X represents that the circumstances resulting in the termination of X's S corporation election were inadvertent and were not motivated by tax avoidance or retroactive tax planning. Additionally, X represents that X and its shareholders have filed their federal income tax returns consistent with having a valid S corporation election in effect for X. X and its shareholders have agreed to make any adjustments consistent with the treatment of X as an S corporation as may be required by the Secretary with respect to the period specified by § 1362(f).

Law and Analysis

Section 1361(a)(1) provides that the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under § 1362(a) is in effect for such year.

Section 1361(b)(1)(B) provides that a "small business corporation" means a domestic corporation that is not an ineligible corporation and that does not have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual.

Section 1361(c)(2)(A)(i) provides that, for the purposes of § 1362(b)(1)(B), a trust all of which is treated (under title 26, subtitle A, chapter 1, subchapter J, part I, subpart E of the United States Code) as owned by an individual who is a citizen or resident of the United States may be a shareholder of an S corporation.

Section 1361(d)(1) provides that, in the case of a qualified subchapter S trust with respect to which a beneficiary makes an election under § 1361(d)(2), (A) such trust will be treated as a trust described in § 1361(c)(2)(A)(i), and (B) for purposes of § 678(a), the beneficiary of such trust shall be treated as the owner of that portion of the trust

which consists of stock in an S corporation with respect to which the election under § 1361(d)(2) is made.

Section 1362(f) provides that if (1) an election under § 1362(a) by any corporation was terminated under § 1362(d)(2) or (3); (2) the Secretary determines that the circumstances resulting in such termination were inadvertent; (3) no later than a reasonable period of time after discovery of the circumstances resulting in the termination, steps were taken so that the corporation is a small business corporation; and (4) the corporation, and each person who was a shareholder of the corporation at any time during the period specified under § 1362(f), agrees to make the adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary for that period, then, notwithstanding the circumstances resulting in such termination, the corporation shall be treated as an S corporation during the period specified by the Secretary.

Conclusion

Based solely on the facts submitted and representation made, we conclude X's S election terminated on Date 2 when the stock in X was transferred to Trust 1, Trust 2 and Trust 3 because the income beneficiaries of Trust 1, Trust 2 and Trust 3 failed to timely file the required QSST elections under § 1361(d)(2). We further conclude that the termination of X's S corporation election was inadvertent within the meaning of § 1362(f). Moreover, had X's S corporation not already terminated, it would have terminated on Date 3 when the additional shares of X were transferred to Trust 1, Trust 2 and Trust 3. Similarly, this terminating event would have been an inadvertent termination within the meaning of § 1362(f).

Accordingly, under § 1362(f), X will be treated as continuing to be an S corporation from Date 2 and thereafter, provided that X's S election is valid and not otherwise terminated under § 1362(d).

This relief is contingent upon the income beneficiaries of Trust 1, Trust 2 and Trust 3 filing a QSST election for their respective trust effective Date 2 within 120 days from the date of this letter. A copy of this letter should be attached to each QSST election.

Except as specifically ruled above, we express or imply no opinion concerning the federal tax consequences of the transactions described above under any other provision of the Code. Specifically, we express or imply no opinion regarding whether X is otherwise eligible to be an S corporation or whether Trust 1, Trust 2 and Trust 3 are eligible to be treated as QSSTs.

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 is being sent to X's authorized representatives.

Sincerely,

Laura C. Fields

Laura C. Fields

Senior Technician Reviewer, Branch 1
(Passthroughs & Special Industries)

Enclosures (2)
Copy of this letter
Copy for § 6110 purposes

cc: