

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact: _____, ID No.

Telephone Number: _____

Refer Reply To:
CC:PSI:B03
PLR-102112-15
Date:
April 28, 2015

Legend

X =

Y =

State =

Date1 =

Date2 =

Dear _____ :

This letter responds to a letter dated November 24, 2014, and subsequent correspondence, submitted on behalf of X by its authorized representative, requesting relief pursuant to § 301.9100-3(a) of the Procedure and Administration Regulations for X to elect to treat Y as a qualified subchapter S subsidiary (QSub).

The information submitted states that X was incorporated under the laws of State, and elected to be treated as an S corporation effective Date1. On Date2, Y was formed under the laws of State as a wholly-owned subsidiary of X. X intended to elect to treat Y as a QSub effective as of Date2. However, due to inadvertence, X failed to timely file Form 8869, Qualified Subchapter S Subsidiary Election, on behalf of Y. X represents that X and Y have filed tax returns for all of the relevant tax years consistent with the tax treatment of Y as a QSub from Date2.

Section 1361(b)(3)(A) of the Internal Revenue Code (Code) 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 a domestic corporation which is not an ineligible corporation, if 100 percent of the stock of the corporation is owned by the S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations prescribes the time and manner for making an election to be classified as a QSub. Section 1.1361-3(a)(4) provides that an election to treat an eligible subsidiary as a QSub may be effective up to two months and 15 days prior to the date the election is filed or not more than 12 months after the election is filed. The proper form for making the election is Form 8869.

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

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 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.

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 the evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and that (2) the grant of relief will not prejudice the interests of the Government.

Based solely upon the information submitted and the representations made, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of 120 days from the date of this letter to file Form 8869 with the appropriate service center to elect to treat Y as a QSub effective Date2. A copy of this letter should be attached to the Form 8869.

Except for the specific ruling above, we express or imply no opinion concerning the federal tax consequences of the facts of this case under any other provision of the Code. Specifically, we express or imply no opinion regarding whether X otherwise qualifies as a small business corporation under § 1361, or whether Y otherwise meets the definition of a QSub under § 1361(b)(3)(B).

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.

The ruling contained in this letter is based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the ruling request, it is subject to verification on examination.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to each of X's authorized representatives.

Sincerely,

Associate Chief Counsel
(Passthroughs & Special Industries)

By:

Mary Beth Carchia
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

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