

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:B3
PLR-102119-15

Date:
July 21, 2015

LEGEND

X =

State =

Date 1 =

Date 2 =

Dear _____ :

This letter responds to a letter dated December 16, 2014, and subsequent correspondence, submitted on behalf of X, requesting relief to file a late S corporation election under § 1362(b)(5) of the Internal Revenue Code (“Code”).

FACTS

The information submitted states that X is a limited liability company formed on Date 1 under the laws of State. X elected to be treated as an association taxable as a corporation. X intended to elect to be treated as an S corporation for federal tax purposes effective Date 2. However, X failed to properly and timely file Form 2553, Election by a Small Business Corporation.

LAW

Section 1362(a) provides that a small business corporation may elect to be an S corporation.

Section 1362(b) provides the rule on when an S election will be effective. Section

1362(b)(1) provides in relevant part that if an S election is made within the first two and one-half months of a corporation's taxable year, then the corporation will be treated as an S corporation for the year in which the election is made. Under § 1362(b)(3), however, if an S election is made after the first two and one-half months of a corporation's taxable year, then that corporation will not be treated as an S corporation until the taxable year after the year in which the S election is filed.

Section 1362(b)(5) provides that if: (A) an election under § 1362(a) is made for any taxable year after the date prescribed by § 1362(b) for making such election for such taxable year or no such election is made for any taxable year, and (B) the Secretary determines that there was reasonable cause for the failure to timely make such election, then the Secretary may treat such an election as timely made for such taxable year.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective Date 2. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 effective Date 2, along with a copy of this letter, with the appropriate service center within 120 days from the date of this letter, then such election will be treated as timely made for Date 2.

Except as expressly provided herein, we express or imply no opinion concerning the federal income tax consequences of the facts described above under any other provision of the Code, including whether X was or is a small business corporation under § 1361(b).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) 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 a power of attorney on file with this office, we are sending a copy of this letter to your authorized representative.

Sincerely,

Richard Probst
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: