

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

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Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B01  
PLR-108405-22

Date:  
October 13, 2022

LEGEND

Company =

Sub =

Date 1 =

Date 2 =

State =

Dear

This responds to a letter dated April 2, 2022, submitted on behalf of Company by Company's authorized representative, requesting relief pursuant to § 301.9100-3 of the Procedure and Administration Regulations that Company be granted an extension of time to elect to treat Sub as a qualified subchapter S subsidiary (QSub) under section § 1361(b)(3) of the Internal Revenue Code (the Code).

FACTS

The information submitted states that Company was organized under the laws of State and elected to be treated as an S corporation effective Date 1. As of Date 2, Company

owned all the outstanding stock of Sub and intended to elect to treat Sub as a QSub effective Date 2. However, due to inadvertence, Company failed to file Form 8869, 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 a domestic corporation, which is not an ineligible corporation, if 100 percent of the stock of the corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner for making an election to be classified as a QSub. Section 1.1361-3(a)(4) provides that an election 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, Qualified Subchapter S Subsidiary Election.

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 under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election or a statutory election (but not 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) provides that the term "regulatory election" includes an election whose due date is prescribed by a regulation published in the Federal Register.

Section 301.9100-2 provides rules governing automatic extensions of time for making certain elections. Section 301.9100-3 provides the guidelines for granting extensions of time for making elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 will be granted when the taxpayer provides evidence (including affidavits described in § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude that Company has satisfied the requirements of §§ 301.9100-1 and 301.9100-3 with respect to the QSub election for Sub. Accordingly, we grant Company an extension of time of 120 days from the date of this letter to file a properly executed Form 8869 for Sub with the appropriate service center effective Date 2. A copy of this letter should be attached to the election.

Except as specifically set forth above, we express or imply no opinion concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, we express or imply no opinion as to whether Company is a valid S corporation or whether Sub is eligible to be a QSub.

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 your authorized representative.

Sincerely,

Holly Porter  
Associate Chief Counsel  
(Passthroughs & Special Industries)

By: \_\_\_\_\_/s/\_\_\_\_\_  
Laura C. Fields  
Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosures  
Copy for § 6110 purposes

cc: