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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-111456-25

Date:
November 18, 2025

LEGEND

X =

State =

Date 1 =

Date 2 =

Date 3 =

Dear :

This letter responds to a letter dated May 23, 2025, and subsequent correspondence, submitted on behalf of X by X's authorized representative, requesting that the Service grant X an extension of time under § 301.9100-3 of the Procedure and Administration regulations to elect to be treated as an association taxable as a corporation for federal tax purposes, relief to file a late S corporation election under § 1362(b)(5), and relief under § 1362(f) of the Internal Revenue Code.

FACTS

According to the information submitted, X was formed as a limited liability company under the laws of State on Date 1. X intended to elect treatment as an S corporation

effective Date 1; however, due to inadvertence X failed to timely file Form 2553, Election by a Small Business Corporation. Since Date 1, X and its shareholders have treated X as an S Corporation.

On Date 2, X discovered that X's operating agreement, which had been in effect since Date 1, contained governing provisions that could give rise to disproportionate distributions since Date 1. Consequently, X's election was ineffective on Date 1. Upon learning that it had more than one class of stock, X amended the operating agreement as of Date 3.

X represents that there is no retroactive tax planning in making this election. X represents that X and its shareholders have filed consistent with X having a valid S corporation election in effect as of Date 1. Further, X and its shareholders have agreed to make adjustments consistent with the treatment of X as an S corporation as may be required by the Secretary.

LAW AND ANALYSIS

Section 1361(a) 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 1362(b)(1) provides that an election under § 1362(a) may be made by a small business corporation for any taxable year (A) at any time during the preceding taxable year, or (B) at any time during the taxable year and on or before the 15th day of the third month of that taxable year.

Section 1.1361-1(l)(1) provides, in part, that a corporation is generally treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds.

Section 1.1361-1(l)(2)(i) provides that the determination of whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds is made based on the corporate charter, articles of incorporation, bylaws, applicable state law, and binding agreements relating to distribution and liquidation proceeds (collectively, the governing provisions).

Section 1362(b)(3) provides that if (A) a small business corporation makes an election under § 1362(a) for any taxable year and (B) the election is made after the 15th day of the third month of the taxable year and on or before the 15th day of the third month of the following taxable year, then such election shall be treated as made for the following taxable year.

Section 1362(b)(5) provides that if an election under § 1362(a) is made for any taxable year (determined without regard to § 1362(b)(3)) after the date prescribed by § 1362(b)

for making the election for the taxable year or no election is made for any taxable year, and the Secretary determines that there was reasonable cause for the failure to timely make the election, the Secretary may treat the election as timely made for the taxable year (and § 1362(b)(3) shall not apply).

Section 1362(d)(2)(A) provides that an election under § 1362(a) shall be terminated whenever (at any time on or after the first day of the first taxable year for which the corporation is an S corporation) such corporation ceases to be a small business corporation. Section 1362(d)(2)(B) further provides that the termination shall be effective on and after the date of cessation.

Section 1362(f) provides, in relevant part, 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 circumstances resulting in such ineffectiveness or termination, steps were taken (A) so that the corporation for which the election was made or the termination occurred is a small business corporation or (B) to acquire the shareholder consents; and (4) the corporation for which the election was made or the termination occurred, 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 the ineffectiveness or termination, the corporation will be treated as an S corporation during the period specified by the Secretary.

Section 301.7701-3(a) provides that a business entity that is not classified as a corporation under § 301.7701-2(b)(1), (3), (4), (5), (6), (7), or (8) (an eligible entity) can elect its classification for federal tax purposes.

Section 301.7701-3(b)(1) provides that unless an entity elects otherwise, a domestic eligible entity is (i) a partnership if it has two or more members, or (ii) disregarded as an entity separate from its owner if it has a single owner.

Section 301.7701-3(c)(1)(i) provides that an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832 with the appropriate Service Center. Section 301.7701-3(c)(1)(iii) provides that this election shall be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified. The date specified on Form 8832 cannot be more than 75 days prior to the date on which the election is filed.

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 (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Internal Revenue 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, 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 extensions 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 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.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. As a result, X is granted an extension of time of 120 days from the date of this letter to file a Form 8832 with the appropriate Service Center to elect to be classified as an association taxable as a corporation for federal tax purposes, effective Date 1. A copy of this letter should be attached to the Form 8832.

In addition, based solely on the facts submitted and representations made, we conclude that X has established reasonable cause for failing to make a timely S Corporation election, and X is eligible for relief under § 1362(b)(5).

Accordingly, X's S corporation election will be treated as timely made for its taxable year that began on Date 1 provided that X files a Form 2553, Election by a Small Business Corporation, with an effective date of Date 1, with the appropriate Service Center within 120 days from the date of this ruling. A copy of this letter should be attached to the Form 2553 filed with the Service Center.

We further conclude that X's S corporation election on Date 1 was ineffective as a result of the provisions in X's operating agreement. We conclude that the circumstances resulting in the termination on Date 1 were inadvertent within the meaning of § 1362(f). Thus, X will be treated as continuing to be an S corporation from Date 1 and thereafter, provided X's S corporation election is otherwise valid and has not otherwise terminated under § 1362(d).

Except as specifically provided 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 concerning whether X otherwise qualifies as an S corporation for federal tax purposes.

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.

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.

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

Sincerely,

Jeffrey Van Hove
Acting Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

/s/
Laura C. Fields
Branch Chief, Branch 1
Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure:
Copy for § 6110 purposes

cc: