Internal Revenue Service

Number: **202637002**
Release Date: 9/11/2026

Index Number: 1362.00-00, 1362.01-00, 1362.01-02, 1362.02-00, 1362.02-02, 1362.04-00, 1362.01-01

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:PTE:01
PLR-105075-26

Date:
June 17, 2026

LEGEND

X =

State =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Trust 1 =

Trust 2 =

A =

B =

a =

Dear :

This letter responds to a letter dated June 4, 2026, and subsequent correspondence, submitted on behalf of X by its authorized representatives, requesting a ruling under § 1362(f) of the Internal Revenue Code (the Code).

FACTS

The information submitted states that X was incorporated under the laws of State on Date 1. Effective Date 2, X filed Form 2553, *Election by a Small Business Corporation*, for X to be treated as an S corporation. However, X represents that it did not obtain all of the shareholder consents required by § 1.1362-6 of the Income Tax Regulations, resulting in an ineffective election. Specifically, on Date 2 all of the stock in X was transferred to Trust 1, a grantor trust described in § 1361(c)(2)(A)(i) (under subpart E of part I of subchapter J of chapter 1 of the Code) of which A and B, United States citizens and spouses who file a joint income tax return, were the deemed owners. B was required, but failed, to consent to X's S corporation election.

On Date 3, Trust 1 transferred a% of the stock in X to Trust 2. X represents that, at all times since Date 3, Trust 2 has been qualified to be an electing small business trust (ESBT). However, the trustee of Trust 2 inadvertently failed to make an ESBT election effective Date 3. As a result, if X's S corporation election had been effective, it would have terminated on Date 3 due to Trust 2 being an ineligible shareholder.

On Date 4, X ceased to be a small business corporation.

X represents that the invalid S election and the failure to make an ESBT election for Trust 2 were inadvertent and were not motivated by tax avoidance or retroactive tax planning, and that X and its shareholders consistently treated X as being an S corporation. Further, X and its shareholders agree to make any adjustments required as a condition of obtaining relief for the invalidity or termination of X's election as provided under § 1362(f) that may be required by the Secretary.

LAW AND ANALYSIS

Section 1362(a) of the Code provides that, except as provided in § 1362(g), a small business corporation may elect, in accordance with the provisions of § 1362, to be an S corporation.

Section 1361(a)(1) defines an “S corporation” as a small business corporation for which an election under § 1362(a) is in effect for the taxable year.

Section 1362(a)(2) provides that an election to be an S corporation shall be valid only if all persons who are shareholders in such corporation on the day on which such election is made consent to such election.

Section 1.1362-6(a)(2)(i) provides that the election to be an S corporation is not valid unless all shareholders of the corporation at the time of the election consent to the election in the manner provided in § 1.1362-6(b).

Section 1361(b)(1) provides that the term “small business corporation” means a domestic corporation which is not an ineligible corporation and which does not (A) have more than 100 shareholders, (B) 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, (C) have a nonresident alien as a shareholder, and (D) have more than one class of stock.

Section 1361(c)(2)(A)(i) provides that, for purposes of § 1361(b)(1)(B), a trust all of which is treated (under subpart E of part I of subchapter J of chapter 1 of the 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 1.1362-6(b)(2)(iv) provides in part that when stock of the corporation is owned by a trust described in section 1361(c)(2)(A)(i), only the person treated as the shareholder for purposes of section 1361(b)(1) must consent to the election.

Section 1361(c)(2)(A)(v) provides that for purposes of § 1361(b)(1)(B), an ESBT may be a shareholder.

Section 1361(e) provides that an ESBT means any trust if (i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, (III) an organization described in paragraph (2), (3), (4), or (5) of § 170(c), or (IV) an organization described in § 170(c)(1) which holds a contingent interest in such trust and is not a potential current beneficiary, (ii) no interest in such trust was acquired by purchase, and (iii) an election under § 1361(e) applies to such trust.

Section 1361(e)(3) provides that an election under § 1361(e) shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

Section 1.1361-1(m)(2)(i) provides that the trustee of an ESBT must make the ESBT election by signing and filing, with the service center where the S corporation files its income tax return, a statement that meets the requirements of § 1.1361-1(m)(2)(ii).

Section 1.1361-1(m)(2)(iii) provides that the trustee of an ESBT must file the ESBT election within the time requirements prescribed in § 1.1361-1(j)(6)(iii) for filing a qualified subchapter S trust election (within the 16-day-and-2-month period beginning on the day that the stock is transferred to the trust).

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 a corporation is an S corporation) such corporation ceases to be a small business corporation. Section 1362(d)(2)(B) provides that the termination shall be effective on and after the date of cessation.

Section 1362(f) provides, in pertinent part, that if (1) an election under § 1362(a) by any corporation 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 terminated under § 1362(d)(2) or (3), (2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent, (3) no later than a reasonable period of time after discovery of the event resulting in the 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, and (4) the corporation, 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 such ineffectiveness or termination, the corporation shall be treated as an S corporation during the period specified by the Secretary.

CONCLUSION

Based on the facts submitted and the representations made, we first conclude that X's S corporation election was ineffective because the required shareholder consents to the election were not obtained. We further conclude that, even if X's S election was not ineffective on Date 2, it would have terminated on Date 3 because the trustee of Trust 2 failed to make a valid election under § 1361(e)(3) to treat Trust 2 as an ESBT effective Date 3. However, we also conclude that the ineffectiveness of X's S corporation election, and the subsequent termination of X's S corporation election that would have occurred due to Trust 2 failing to be an ESBT, were inadvertent within the meaning of § 1362(f). Pursuant to the provisions of § 1362(f), X will be treated as an S corporation from Date 2 until Date 4, provided X's S corporation election was otherwise effective and not terminated under § 1362(d).

As a condition to this ruling, B must sign a written statement as described in § 1.1362-6(b)(1) consenting to X's S corporation election effective Date 2. The written statement must be filed with the appropriate service center within 120 days from the date of this letter, indicating that the statement is to be associated with X's originally filed Form 2553. A copy of this letter should be attached to the statement.

This ruling is also contingent on the trustee of Trust 2 filing within 120 days of the date of this letter an ESBT election effective Date 3 with the appropriate service center. A copy of this letter should be attached to the ESBT election.

This ruling is also contingent on X's shareholders, including A, B, and Trust 2, and the beneficiaries of Trust 2, filing original or amended federal income tax returns for all open years to properly reflect the reporting of X's items of S corporation income and consistent with treating Trust 2 as an ESBT owning a% of the stock in X from Date 3 until Date 4. The returns must be filed with the appropriate service center within 120 days following the date of this letter, and a copy of this letter should be attached to the returns.

If these conditions are not met, then this ruling is null and void.

Except as specifically ruled 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 was otherwise eligible to be an S corporation.

This ruling is directed only to the taxpayer that requested it. According to § 6110(k)(3), this ruling 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.

Pursuant to a power of attorney on file with this office, we are sending a copy of this letter to your authorized representatives.

Sincerely,

/S/

Laura C. Fields
Chief, Branch 1
Office of the Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure
Copy for § 6110 purposes

cc: