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Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

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Date:
August 06, 2026

LEGEND

X =

State =

Date 1 =

Date 2 =

Date 3 =

Trust =

A =

Agreement 1 =

Agreement 2 =

Dear :

This letter responds to a letter dated December 20, 2025, and subsequent correspondence, submitted on behalf of X by X's authorized representatives requesting relief under § 1362(f) of the Internal Revenue Code (the Code).

FACTS

According to the information submitted, X was organized as a limited liability company on Date 1, under the laws of State. X elected to be treated as an S corporation effective Date 2. As of Date 2, Trust owned shares of X. X represents that Trust meets the requirements to be treated as a qualified subchapter S trust (QSST) as described in § 1361(d), except that A, the current income beneficiary of Trust, failed to make an election under § 1361(d)(2) to treat Trust as a QSST. Therefore, X's S corporation election intended to be effective Date 2 was ineffective.

Additionally, the terms of X's operating agreement (Agreement 1) in effect as of Date 2 did not provide for identical rights to distribution and liquidation proceeds. Agreement 1 contained a requirement that X must first source distributions of "Net Cash Flow" made to the members or interest holders in "an amount equal to the positive balance of the 'Contribution Account' maintained for each of them." Additionally, Agreement 1 provided that the proceeds of X upon its liquidation shall be applied and distributed "to the 'Members' in accordance with their positive 'Capital Account' balances, after taking into account profit and loss allocations for the [X]'s taxable year during which liquidation occurs." These provisions of Agreement 1 caused X to have more than one class of stock under § 1361(b)(1)(D), and therefore a second reason that X's S corporation election intended to be effective Date 2 was ineffective.

X represents that it executed an amended operating agreement (Agreement 2) on Date 3 that eliminated the provisions that caused X to have more than one class of stock.

X represents that the circumstances surrounding the ineffectiveness of X's S corporation election were inadvertent and not the result of tax avoidance or retroactive tax planning. X further represents that for each taxable year beginning Date 2, X and its shareholders have filed tax returns consistent with X being an S corporation. X also represents that all the income with respect to the stock of X held by Trust has been reported by A on A's individual federal tax returns as if the QSST election for Trust had been in effect since Date 2. In addition, X and its shareholders have agreed to make any adjustment that may be required by the Secretary as a condition of obtaining relief under § 1362(f).

LAW AND ANALYSIS

Section 1361(a)(1) provides that the term “S corporation” means, with respect to any taxable year, a small business corporation for which an election under section 1362(a) is in effect for such year.

Section 1361(b)(1) defines a “small business corporation” as 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 1.1361-1(l)(1) of the Income Taxation Regulations provides 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, in part, 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, governing provisions).

Section 1361(d)(1) provides that a QSST whose beneficiary makes an election under § 1362(d)(2) will be treated as a trust described in § 1361(c)(2)(A)(i), and the QSST's beneficiary will be treated as the owner (for purposes of § 678(a)) of that portion of the QSST's S corporation stock to which the election under § 1361(d)(2) applies. Under § 1361(d)(2)(A), a beneficiary of a QSST may elect to have § 1361(d) apply. Under § 1361(d)(2)(D), this election will be effective up to 15 days and two months before the date of the election.

Section 1361(d)(3) defines a QSST as a trust (A) the terms of which require that (i) during the life of the current income beneficiary, there shall be only one income beneficiary of the trust; (ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary; (iii) the income interest of the current beneficiary in the trust shall terminate on the earlier of the beneficiary's death or the termination of the trust; and (iv) upon the termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to that beneficiary; and (B) all of the income (within the meaning of § 643(b) of which is distributed (or required to be distributed) currently to one individual who is a citizen or resident of the United States.

Section 1.1361-1(j)(6)(ii) of the Income Taxation Regulations provides that the current income beneficiary of the trust must make the election under § 1361(d)(2) by signing

and filing with the service center with which the corporation files its income tax return the applicable form or a statement including the information listed in § 1.1361-1(j)(6)(ii).

Section 1.1361-1(j)(7)(i) provides that the income beneficiary who makes the QSST election and is treated (for purposes of § 678(a)) as the owner of that portion of the trust that consists of S corporation stock is treated as the shareholder for purposes of §§ 1361(b)(1), 1366, 1367, and 1368.

Section 1362(f) provides 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 paragraph (2) or (3) of § 1362(d); (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 circumstances resulting in such ineffectiveness or termination, steps were taken (A) so that the corporation is a small business corporation, or (B) to acquire the required shareholder consents, 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 solely on the facts submitted and the representations made, we conclude that X's S corporation election was ineffective on Date 2 because the beneficiary of Trust failed to file a timely QSST election under § 1361(d)(2) and X had more than one class of stock. We further conclude, however, that the circumstances that caused X's S corporation election to be ineffective were inadvertent within the meaning of § 1362(f). Therefore, under § 1362(f), X will be treated as an S corporation from Date 2 and thereafter, provided that its S corporation election was otherwise valid and not otherwise terminated under § 1362(d). Furthermore, Trust will be treated as a QSST from Date 2 and thereafter.

This ruling is subject to the following condition that must occur within one hundred twenty (120) days from the date of this letter: the current income beneficiary of Trust must file a QSST election as described under § 1361(d)(2) effective Date 2, with the appropriate service center. A copy of this letter should be attached to the QSST election. If this condition is not met, then this ruling is null and void.

Except as specifically ruled upon 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 or whether Trust was otherwise eligible to be a QSST.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3) of the Code, 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 the power of attorney on file with this office, we are sending copies of this letter to X's authorized representatives.

Sincerely,

Jennifer N. Keeney
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure:
Copy of this letter for § 6110 purposes

cc: