Internal Revenue Service

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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-151409-11
Date:
May 18, 2012

LEGEND

X =

D =

State =

Dear :

This responds to a letter dated August 8, 2011, submitted on behalf of X, requesting relief under § 1362(b)(5) of the Internal Revenue Code.

FACTS

According to the information submitted, X was incorporated on D under the laws of State. X intended to be treated as an S corporation for Federal tax purposes effective D, but the proper election was not timely filed.

LAW AND ANALYSIS

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)(2) provides 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. If the election is made after the first two and one-half months of a corporation's taxable year, then the corporation will

not be treated as an S corporation until the taxable year after the year in which the S election is made.

Section 1362(b)(5) provides that if no election is made pursuant to § 1362(a), or, if made, the election is made after the date prescribed for making such an election, and the Secretary determines there was reasonable cause for the failure to timely make the election, then the Secretary may treat such election as timely made for such taxable year and effective as of the first day of that year.

X did not file a timely election to be treated as an S corporation under § 1362(a) effective D. X has, however, established reasonable cause for not making a timely election and is entitled to relief under § 1362(b)(5).

CONCLUSION

Based solely on the facts submitted and representations made, and provided that X otherwise qualifies as a subchapter S corporation, we conclude that X will be recognized as an S corporation effective D if, within 120 days from the date of this letter, X submits a properly completed Form 2553, with a copy of this letter attached, to the appropriate service center.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed or implied concerning whether X otherwise qualifies as an S corporation for federal tax purposes.

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.

In accordance with the power of attorney on file with this office, a copy of this letter is being sent to the taxpayer's authorized representative.

Sincerely,

Joy C. Spies
Joy C. Spies
Senior Technician Reviewer, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

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

cc: