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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:PT&E:B03

PLR-122026-24

Date:

June 06, 2025

LEGEND

X =

Sub =

State 1 =

State 2 =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This letter responds to a letter dated November 6, 2024, and subsequent correspondence, submitted on behalf of X by its authorized representatives, requesting an extension of time under § 301.9100-3 of the Procedure and Administration

Regulations to elect to treat Sub as a qualified subchapter S Subsidiary (“QSub”) under § 1361(b)(3)(B)(ii) of the Internal Revenue Code (Code).

FACTS

The information submitted states that X was organized under the laws of State 1 on Date 1, and elected to be an S corporation effective as of that date. On Date 2, Sub was organized under the laws of State 2 and elected to be an S corporation effective Date 3. As of Date 4, X wholly owned Sub and intended to elect to treat Sub as a QSub effective Date 4. However, X failed to timely file Form 8869, Qualified Subchapter S Subsidiary Election, for Sub effective Date 4. X represents that it has acted reasonably and in good faith and that granting relief will not prejudice the interests of the government.

LAW AND ANALYSIS

Section 1362(a)(1) 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(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 3rd month of the taxable year.

Section 1362(b)(5) provides that if: (A) an election under § 1362(a) is made for any taxable year after the date prescribed by § 1362(b) for making such election for such taxable year or no such election is made for any taxable year, and (B) the Secretary determines that there was reasonable cause for failure to timely make such election, then the Secretary may treat such an election as timely made for such taxable year.

Section 1361(b)(3)(A) generally provides that (i) a corporation which is a QSub shall not be treated as a separate corporation, and (ii) 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) provides that, for the purposes of § 1361(b)(3)(B), the term “qualified subchapter S subsidiary” means any domestic corporation which is not an ineligible corporation (as defined in § 1361(b)(2)) if (i) 100 percent of the stock of such corporation is held by the S corporation, and (ii) the S corporation elects to treat such corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations prescribes the time and manner for making an election to be classified as a QSub. Section 1.1361-3(a)(4)

provides that an election cannot be effective more than two months and 15 days prior to the date the election is filed or 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 the 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 no more than six 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.

Sections 301.9100-1 through 301.9100-3 provide the standards that the Commissioner will use to determine whether to grant an extension of time to make an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides rules for requesting extensions of time for regulatory elections 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 the 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 (2) 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 X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3 with respect to the QSub election for Sub. Accordingly, we grant X 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 4. A copy of this letter should be attached to the election.

Except as expressly provided herein, we express or imply no opinion concerning the federal tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, we express or imply no opinion as to whether X is a valid S corporation, or whether Sub is eligible to be a QSub.

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 request for ruling, it is subject to verification on examination.

This ruling is only directed to the taxpayers requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, we are sending a copy of this letter to X's authorized representative.

Sincerely,

Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

By: _____
Richard T. Probst
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure:

Copy of this letter for § 6110 purposes

cc: