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Department of the Treasury

Washington, DC 20224

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PLR-122640-24

PLR-122642-24

PLR-122643-24

PLR-122644-24

PLR-122645-24

PLR-122646-24

PLR-122647-24

Date:

June 02, 2025

LEGEND

X =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

State =

Date 1 =

Date 2 =

Dear :

This letter responds to a letter dated January 22, 2024, and subsequent correspondence, submitted on behalf of X by its authorized representatives, requesting that the Service grant an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to X to file an election under § 301.7701-3 to be classified as an association taxable as a corporation, and relief to file a late S corporation election under § 1362(b)(5) of the Internal Revenue Code (“Code”). The letter also requests that the Service grant an extension of time under § 301.9100-3 for X to treat Sub 1, Sub 2, Sub 3, Sub 4, Sub 5, and Sub 6 as qualified subchapter S subsidiaries (“QSubs”) under § 1361(b)(3).

FACTS

The information submitted states that X was formed as a limited liability company under the laws of State on Date 1. X intended to elect to be classified as an association taxable as a corporation and to elect to be treated as an S corporation for federal tax purposes, with both elections effective Date 2. However, X failed to file Form 2553, Election by a Small Business Corporation, including the deemed election to be classified as an association taxable as a corporation under § 301.7701-3(c)(1)(v)(C), or any separate Form 8832, Entity Classification Election, effective Date 2.

In addition, on Date 2, the shareholders of Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6 contributed all their stock in Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6, respectively, to X, resulting in X wholly owning Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6. X intended to treat Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6 as QSubs under § 1361(b)(3) effective Date 2. However, X failed to timely file a Form 8869, Qualified Subchapter S Subsidiary Election, for each of Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6 effective Date 2.

LAW AND ANALYSIS

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. An eligible entity with at least two members can elect to be classified as either an association (and thus a corporation under § 301.7701-2(b)) or a partnership. Elections are necessary only when an eligible entity chooses to be classified initially as other than the default classification or when an eligible entity chooses to change its classification.

Section 301.7701-3(b)(1) provides that, unless the 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, except as provided in § 301.7701-3(c)(1)(iv) and (v), an eligible entity may elect to be classified other than as provided under § 301.7701-3(b) by filing Form 8832, Entity Classification Election, with the service center designated on Form 8832.

Section 301.7701-3(c)(1)(iii) provides that an election made under § 301.7701-3(c)(1)(i) will be effective on the date specified by the entity on Form 8832 or on the date filed if no such date is specified on the election form. The effective date specified on Form 8832 cannot be more than 75 days before the date on which the election is filed.

Section 301.7701-3(c)(1)(v)(C) provides that an eligible entity that timely elects to be an S corporation under § 1362(a)(1) is treated as having made an election under § 301.7701-3 to be classified as an association, provided that (as of the effective date of the election under § 1362(a)(1)) the entity meets all other requirements to qualify as a small business corporation under § 1361(b). Subject to § 301.7701-3(c)(1)(iv), the deemed election to be classified as an association will apply as of the effective date of the S corporation election and will remain in effect until the entity makes a valid election under § 301.7701-3(c)(1)(i), to be classified as other than an association.

Section 301.9100-1(c) provides that the Commissioner in exercising the Commissioner's discretion 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 6 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 the Commissioner will use to determine whether to grant an extension of time to make the election. 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 elections that do not meet the requirements of § 301.9100-2.

Section 301.9100-3(a) provides that requests for relief subject to § 301.9100-3 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 the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the Government.

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 § 1362(a) is in effect for such year.

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 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 the taxable year.

Section 1362(b)(3) provides that if (A) a small business corporation makes an election under § 1362(a) for any taxable year, and (B) such 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 is treated as made for the following taxable year.

Section 1362(b)(5) provides that if (A) 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 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 the failure to timely make such election, the Secretary may treat such an election as timely made for such taxable year (and § 1362(b)(3) shall not apply).

Section 1361(b)(3)(A) provides that, except as provided in regulations prescribed by the Secretary, for purposes of the Code (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) defines a QSub as a domestic corporation which is not an ineligible corporation (as defined in § 1361(b)(2)), if (i) 100 percent of the stock of the corporation is held by the S corporation, and (ii) the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations prescribes the time and manner for making a QSub election. Section 1.1361-3(a)(4) provides that a QSub election cannot be effective more than two months and 15 days prior to the date of

filing. The proper form for making a QSub 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 §§ 301.9100-1 and 301.9100-3.

ANALYSIS

Based solely on the information submitted and the representations made, we conclude that X has satisfied the requirements of §§ 301.9100-1 and 301.9100-3. Therefore, X is granted an extension of time of 120 days from the date of this letter to file 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 2. A copy of this letter must accompany Form 8832.

In addition, based solely on the facts submitted and the representations made, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective Date 2 and is eligible for relief under § 1362(b)(5). Accordingly, if X makes an election to be an S corporation by filing a completed Form 2553 effective Date 2, with the appropriate service center within 120 days from the date of this letter, then such election shall be treated as timely made. A copy of this letter must accompany Form 2553.

Furthermore, 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 with respect to Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6. 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 each of Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 and Sub 6 with the appropriate service center, effective Date 2. A copy of this letter should be attached to the elections.

Finally, this ruling is contingent on X and its shareholders filing, within 120 days from the date of this letter to the extent necessary or appropriate, all required federal income tax returns (including amended returns) consistent with the relief granted in this letter. A copy of this letter must accompany any such returns.

We express no opinion concerning the assessment of any interest, additions to tax, additional amounts, or penalties for failure to file a timely tax or information return with respect to any taxable year that may be affected by this ruling. For example, we express no opinion as to whether taxpayer is entitled to any relief from any penalty on the basis that this taxpayer had reasonable cause for failure to file timely any income tax or information returns.

Except as expressly provided herein, 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 X's eligibility to be an S corporation or whether Sub 1, Sub 2, Sub 3, Sub 4, Sub 5 or Sub 6 are valid QSubs. In addition, § 301.9100-1(a) provides that the granting of an extension of time for making an election is not a determination that the taxpayer is otherwise eligible to make the election.

The rulings contained in this letter are based on 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 requested rulings, it is subject to verification on examination.

These rulings are directed only to the taxpayer requesting them. Section 6110(k)(3) of the Code provides that they may not be used or cited as precedent.

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

Sincerely,

Associate Chief Counsel
(Partnerships, Trusts, and Estates)

By: _____
Elizabeth V. Zanet
Senior Technician Reviewer, Branch 3
Office of the Associate Chief Counsel
(Partnerships, Trusts, and Estates)

PLR-122640-24 7
PLR-122642-24 through PLR-122646-24

cc: