

**Internal Revenue Service**

Department of the Treasury

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Washington, DC 20224

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Person to Contact:

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:3 PLR-117796-99

Date:

February 22, 2000

Company:

Shareholder:

a:

b:

This letter responds to your letter dated October 5, 1999, as well as subsequent correspondence, in which you request a ruling under § 1362(f) of the Internal Revenue Code that the termination of Company's S corporation election was inadvertent.

Under § 1361(a)(1), the term "S corporation" means, with respect to any tax year, a small business corporation for which an election under § 1362(a) is in effect for the year. Section 1361(a)(2) defines the term "C corporation", with respect to any tax year, as a corporation that is not an S corporation for that year.

Section 1362(d) provides that an election under § 1362(a) terminates if--

- (1) the corporation revokes with the consent of shareholders owning a majority of the shares,
- (2) the corporation ceases to be a small business corporation, or
- (3) the corporation has accumulated earnings and profits and has passive investment income exceeding 25 percent of gross receipts for 3 consecutive tax years.

Regarding any corporation whose election under § 1362(a) was terminated

PLR-117796-99

under § 1362(d)(2) or (3), § 1362(f) permits the Service to treat such a corporation as an S corporation despite the termination if, among other things, the Service determines that the circumstances resulting in termination were inadvertent.

Company's S corporation election was revoked by letter dated a, to be effective for the first tax year beginning after b. Shareholder, owning 100 percent of Company's shares, consented to the revocation. We rule that this termination by revocation under § 1362(d)(1) is not an inadvertent termination.

Except for the specific ruling above, no opinion is expressed or implied concerning the federal income tax consequences of the facts of this case under any other provision of the Code.

This ruling is directed only to the taxpayer who requested it. According to § 6110(k)(3), this ruling may not be used or cited as precedent.

Sincerely,

WILLIAM P. O'SHEA  
Chief, Branch 3  
Office of Assistant Chief Counsel  
(Passthroughs and Special Industries)

enclosure: copy for § 6110 purposes