

Internal Revenue Service

Department of the Treasury

Index Number: 1362.01-03

Washington, DC 20224

Number: 200023038

Person to Contact:

Release Date: 6/9/2000

Telephone Number:

Refer Reply To:

CC:DOM:P&SI:2 - PLR-102935-00

Date:

March 13, 2000

X =

A =

D1 =

Year 1 =

Dear :

This letter responds to your letter dated January 25, 2000, submitted by you as X's authorized representative on behalf of X, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

The information submitted states that X was incorporated effective D1 of Year 1. A, the president and sole shareholder of X, represents that X was intended to be an S corporation effective as of incorporation, as evidenced by corporate resolutions adopted D1 of Year 1, indicating that the sole shareholder of X has elected for X to be treated as an S corporation. A further represents that X relied on X's attorneys to prepare and file a Form 2553, Election by a Small Business Corporation, for X effective for X's taxable year beginning D1 of Year 1, but due to miscommunication between X and X's attorneys, no Form 2553 was filed for X.

Section 1362(b)(5) of the Code 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 the failure to timely make such election, the Secretary may treat such an election as timely made for such taxable year.

Based solely on the facts and the representations submitted, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation for X's Year 1 taxable year. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 with the appropriate service center effective for its Year 1 taxable year, within 60 days following the date of this letter, then such election will be treated as timely made for X's Year 1 taxable year. A copy of this letter should be attached to the Form 2553.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code, including whether X was or is a small business corporation under § 1361(b) of the Code.

This ruling is directed only to the taxpayer who requested 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, copies of this letter are being forwarded to X and to X's other authorized representative.

Sincerely yours,

H. GRACE KIM
Assistant to the Chief
Branch 2
Office of the Assistant
Chief Counsel
(Passthroughs and
Special Industries)

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes