

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

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Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B02 – PLR-116099-04

Date:

May 12, 2004

X =

A =

D1 =

Dear _____ :

This letter responds to your letter dated March 10, 2004, and subsequent correspondence, submitted on behalf of X, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

The information submitted states that A, the president of X, represents that X intended to elect to be an S corporation effective D1. However, A inadvertently failed to timely file a Form 2553, Election by a Small Business Corporation, for X.

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 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 representations submitted, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation effective D1. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 effective D1, along with a copy of this letter, with the appropriate service center within 60 days from the date of this letter, then such election will be treated as timely made for D1.

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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, include whether X was or is a small business corporation under § 1361(b).

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 X and X's other authorized representative.

Sincerely,

Carolyn Hinchman Gray
Senior Counsel, Branch 2
Office of Associate Chief Counsel

(Passthroughs & Special Industries)

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