

## Internal Revenue Service

## Department of the Treasury

Number: **200138011**

Release Date: 9/21/2001

Index Number: 9100.00-00

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:

CC:P&SI:1-PLR-111744-01

Date:

June 20, 2001

X =

W =

Y =

Z =

Date 1 =

Date 2 =

Date 3 =

:

This letter responds to a letter dated December 8, 2000, written on behalf of X, requesting a ruling that X be granted an extension of time in which to elect to treat its first tier subsidiaries, W and Y, and its second tier subsidiary, Z, as qualified subchapter S subsidiaries (QSubs).

### FACTS

According to the information submitted, X was formed on Date 1. On the same date X incorporated its wholly owned subsidiary W. On Date 2, the shareholders of Y, a corporation, contributed their shares in Y to X in exchange for X stock. X elected to be treated as an S corporation effective Date 2. From the date on which X elected to be treated as an S corporation X intended to have W and Y treated as QSubs; however X inadvertently failed to timely file QSub elections for W and Y.

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On Date 3 Y incorporated Z. From the date of incorporation of Z, X intended to treat Z as a QSub. However, in the course of preparing to file a QSub election for Z, X discovered that because X had not filed a QSub election for Y, it was not possible for X to file a QSub election for Z.

## LAW AND ANALYSIS

Section 1361(b)(3)(B) defines the term “qualified subchapter S subsidiary” as a domestic corporation which is not an ineligible corporation as defined in section 1361(b)(2), if (1) an S corporation holds 100 percent of the stock of the corporation, and (2) that S corporation elects to treat the subsidiary as a QSub. The election is made by filing Form 8869.

Under section 301.9100-1(c) of the Procedure and Administration Regulations, the Commissioner may grant a reasonable extension of time 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, if the taxpayer demonstrates to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that granting the relief will not prejudice the interests of the government. Section 301.9100-1(b) defines the term “regulatory election” as including an election whose deadline is prescribed by a notice published in the Internal Revenue Bulletin.

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 an election. Section 310.9100-2 provides automatic extensions of time for making certain elections, but does not apply to QSub elections. Section 301.9100-3 provides extensions of time for making elections that do not meet the requirements of section 301.9100-2. Requests for relief under section 301.9100-3 will be granted when the taxpayer provides evidence to establish that the taxpayer acted reasonably and in good faith, and that granting relief will not prejudice the interests of the government.

## CONCLUSIONS

Based solely on the facts submitted and the representations made, the requirements of sections 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of sixty (60) days from the date of this letter to make an election to treat its wholly owned subsidiaries W and Y as QSubs effective Date 2. In addition, X is granted an extension of time of sixty (60) days from the date of this letter to make an election to treat Y's wholly owned subsidiary Z as a QSub effective Date 3. X should submit the properly completed Forms 8869 to the relevant service center. A copy of this letter should be attached to each of the Forms 8869 filed with the service center.

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Except as specifically set forth above, no opinion is expressed or implied concerning the federal tax consequences of the facts described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether X is a valid S corporation or whether its subsidiaries W, Y, and Z are valid QSubs.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to the power of attorney on file with this office a copy of this letter is being sent to the taxpayer.

Sincerely yours,  
Paul F. Kugler  
Associate Chief Counsel  
(Passthroughs and Special Industries)

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