

## Internal Revenue Service

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Department of the Treasury  
Washington, DC 20224

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Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PSI:B01  
PLR-104281-21  
Date:  
August 17, 2021

### Legend

X =

Sub =

Date 1 =

Date 2 =

Date 3 =

State =

Dear :

This responds to a letter dated February 1, 2021 and supplemental information, submitted on behalf of X, requesting that the Service grant X an extension of time under § 301.9100-3(c) of the Procedure and Administration Regulations for X to elect to treat Sub as a qualified subchapter S subsidiaries (QSub) under § 1361(b)(3) of the Internal Revenue Code (Code).

### FACTS

The information submitted discloses that X was formed on Date 1 under the laws of State. X filed Form 2553, Election by a Small Business Corporation, with an effective date of Date 2. X wholly owns Sub. X represents that it intended to elect to treat Sub as a QSub effective Date 3. However, X failed to timely file Form 8869, Qualified Subchapter S Subsidiary Election, for Sub to be effective Date 3. X represents that it has filed its tax returns for all of the relevant tax years consistent with Sub being a QSub.

X represents that it has acted reasonably and in good faith, that granting relief will not prejudice the interests of the government, and that it is not using hindsight in making the election.

### LAW AND ANALYSIS

Section 1361(b)(3)(A) provides that except as provided in regulations prescribed by the Secretary, for purposes of Title 26, (i) a corporation that 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 the term “qualified subchapter S subsidiary” as a domestic corporation that is not an ineligible corporation (as defined in § 1361(b)(2)), if 100 percent of the stock of the corporation is held by an S corporation, and the S corporation elects to treat the corporation as a QSub.

Section 1.1361-3(a) of the Income Tax Regulations provides the time and manner of making a QSub election. A taxpayer makes a QSub election for a subsidiary by filing Form 8869 with the appropriate service center.

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.

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.

Under § 301.9100-1(c), 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 Internal Revenue Code (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 an election. Section 301.9100-2 provides automatic extensions of time for making certain elections. Section 301.9100-3 provides extensions 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 under § 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.

CONCLUSION

Based on the facts and representations submitted, we conclude that the requirements of § 301.9100-3 have been satisfied. Accordingly, X is granted an extension of time of 120 days from the date of this letter to elect to treat Sub as a QSub, effective Date 3. The election should be made for Sub by filing Forms 8869 with the appropriate service center, with a copy of this letter attached. A copy is enclosed for that purpose.

Except for the specific ruling above, 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 concerning whether X is a valid S corporation or whether Sub is eligible to be a QSub.

The ruling contained in this letter is based upon 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 ruling request, it is subject to verification on examination.

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's authorized representative.

Sincerely,

Associate Chief Counsel  
(Passthroughs & Special Industries)

By:

Laura Fields

Laura Fields  
Chief, Branch 1  
Office of the Associate Chief Counsel  
(Passthroughs & Special Industries)

Enclosure

Copy for 6110 purposes

cc: