

Internal Revenue Service

Department of the Treasury

Index Number: 9100.00-00, 1361.00-00

Washington, DC 20224

Number: **200022043**
Release Date: 6/2/2000

Person to Contact:

Telephone Number:

Refer Reply To:
PLR-119428-99 / CC:DOM:P&SI:3
Date:
March 7, 2000

LEGEND

Company =

S1 =

S2 =

S3 =

State =

d1 =

d2 =

Dear

This letter responds to the letter dated December 10, 1999, submitted on behalf of Company, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to elect to treat three subsidiaries as qualified subchapter S subsidiaries (QSubs) under § 1361(b)(3) of the Internal Revenue Code.

FACTS

According to the information submitted, Company was incorporated under State law on d1. Company elected to be an S corporation effective d2. Company has three wholly owned subsidiaries, S1, S2, and S3. Company intended to elect to treat S1, S2,

and S3 as QSubs as of d2, but failed to timely file the appropriate election.

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 § 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.

On January 13, 1997, the Service published Notice 97-4, 1997-1 C.B. 351, providing a temporary procedure for making a QSub election. Under Notice 97-4, a taxpayer makes a QSub election with respect to a subsidiary by filing a Form 966, subject to certain modifications, with the appropriate service center. The election may be effective on the date the Form 966 is filed or up to 75 days prior to the filing of the form, provided that the date is not before the parent's first taxable year beginning after December 31, 1996, and that the subsidiary otherwise qualifies as a QSub for the entire period for which the retroactive election is in effect.

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 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-(b) defines the term "regulatory election" as including an election whose deadline is prescribed by a notice published in the Internal Revenue Bulletin.

Sections 301.9100-2 and 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 making elections that do not meet the requirements of § 301.9100-2. Requests for relief under § 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 and representations submitted, we conclude that the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, Company is granted an extension of time of sixty (60) days from the date of this letter to elect to treat S1, S2, and S3 as QSubs, effective d2. The elections should be made by following the procedure set forth in Notice 97-4, and a copy of this letter should be attached to the election.

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 Company otherwise is a valid S corporation or whether S1, S2, or S3 otherwise are valid QSubs for federal tax purposes.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

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.

Sincerely yours,

Paul F. Kugler
Assistant Chief Counsel
(Passthroughs and Special
Industries)

Enclosures (2)
Copy of this letter
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