Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Person to Contact: 199915055

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:1-PLR-118005-98
Date:
JAN 14 1999

Legend

X =

A =

B =

C =

D =

Date 1 =

This responds to a request submitted on behalf of X that X be given an extension of time in which to elect to treat A, B, C, and D as qualified subchapter S subsidiaries (QSubs) under section 1361(b)(3) of the Internal Revenue Code.

FACTS

X began doing business on Date 1 and timely filed an election to be a subchapter S corporation. A, B, C, and D are wholly-owned subsidiaries of X that X

intended to elect to treat as QSubs as of Date 1. However, X failed to file timely QSub elections.

LAW AND ANALYSIS

Section 1361(b)(3)(B) defines the term "qualified subchapter S subsidiary" as any domestic corporation which is not an ineligible corporation if 100 percent of the stock of such corporation is held by the S corporation and the S corporation elects to treat such corporation as a QSub.

Notice 97-4, 1997-2 I.R.B. 24, provides that a parent corporation should file a Form 966 to make a QSub election and that 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 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) 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 301.9100-1(a).

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. Section 301.9100-3(a).

CONCLUSION

In the present situation, the requirements of §§ 301.9100-1 and 301.9100-3 have been satisfied. As a result, X is granted an extension of time of sixty (60) days following the date of this letter to make an election to treat A, B, C, and D as QSubs effective Date 1. The election should be made by following the procedure set forth in Notice 97-4. A copy of this letter should be attached to the election. X must file the required documents with the appropriate Service Center.

Except as specifically set forth above, no opinion is expressed or implied as to the federal income tax consequences of the transactions described above under any other provision of the Code. Specifically, no opinion is expressed concerning whether X is an S corporation or whether A, B, C, and D otherwise qualify as QSubs for federal tax purposes.

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

Pursuant to a power of attorney on file in this office, a copy of this letter is being sent to the first representative listed.

Sincerely yours,

Paul F. Kugler

PAUL F. KUGLER
Assistant Chief Counsel
(Passthroughs and Special Industries)

Enclosures: 2
Copy of this letter
Copy for sec. 6110 purposes