

Internal Revenue Service

Department of the Treasury

Index Number: 9100.00-00 1361.00-00

Washington, DC 20224

Number: **199938029**
Release Date: 9/24/1999

Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:2 - PLR-104478-99
Date:
June 30, 1999

- X =
- Sub 1 =
- Sub 2 =
- Sub 3 =
- Sub 4 =
- Sub 5 =
- Sub 6 =
- Sub 7 =
- Sub 8 =
- Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

Sub 16 =

Sub 17 =

Sub 18 =

D1 =

D2 =

D3 =

D4 =

D5 =

D6 =

D7 =

D8 =

D9 =

D10 =

D11 =

D12 =

D13 =

D14 =

D15 =

D16 =

D17 =

D18 =

Dear :

This letter responds to the letter dated February 23, 1999, and subsequent correspondence submitted on X's behalf by X's authorized representative, requesting rulings concerning X's election to treat certain subsidiaries as qualified subchapter S subsidiaries (QSubs) under § 1361(b)(3)(B) of the Internal Revenue Code.

The information submitted states that X was formed on D1 and elected to be an S corporation effective D1. Subs 1 through 18 are wholly owned by X and were intended to be QSubs effective, respectively, D2, D3, D4, D5, D6, D7, D8, D9, D10, D11, D11, D12, D13, D14, D15, D16, D17, and D18. However, for Sub 1, X filed a Form 966, Corporate Dissolution or Liquidation, more than 75 days after D2. In addition, for each of Subs 1 through 4, X filed Form 966 without all of the modifications set forth in Notice 97-4, 1997-1 C.B. 351. In addition, for each of Subs 5 through 18, X failed to file a Form 966.

Section 1361(b)(3)(B) defines the term "qualified subchapter S subsidiary" (QSub) as a domestic corporation which is not an ineligible corporation, if 100 percent of the stock of the corporation is owned by an S corporation, and the S corporation elects to treat the corporation as a QSub. The statutory provision does not, however, provide guidance on the manner in which the QSub election is made or the effective date of the election.

On January 13, 1997, the Service published Notice 97-4, 1997-1 C.B. 351, providing a temporary procedure for the making of a QSub election. Under Notice 97-4, a taxpayer makes a QSub election with respect to a subsidiary by filing a Form 966, Corporate Dissolution or Liquidation, subject to certain modifications, with the appropriate service center. The election may be effective on the date 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.

Section 301.9100-1(c) of the Procedure and Administration Regulations provides

that the Commissioner has the discretion to grant a reasonable extension of the time, under the rules set forth in §§ 301.9100-2 and 301.9100-3, to make a regulatory election. Section 301.9100-1(b) defines “regulatory election” as an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin.

Section 301.9100-2 provides the rules governing automatic extensions of time for making certain elections.

Section 301.9100-3 provides the standards the Commissioner will use to determine whether to grant an extension of time for regulatory elections that do not meet the requirements of § 301.9100-2. Under § 301.9100-3, a request for relief will be granted when the taxpayer provides evidence to establish to the satisfaction of the Commissioner that (1) the taxpayer acted reasonably and in good faith, and (2) granting relief will not prejudice the interests of the government.

In the present situation, the requirements of § 301.9100-3 have been satisfied. As a result, X is granted an extension of time for making the elections to treat Sub 1 and Subs 5 through 18 as QSubs, effective, respectively, D2, D6, D7, D8, D9, D10, D11, D11, D12, D13, D14, D15, D16, D17, and D18, until 60 days following the date of this letter. The elections should be made by following the procedure set forth in Notice 97-4. A copy of this letter should be attached.

Further, we conclude that X may correct the Forms 966 filed with respect to Subs 2 through 4 by refiling Forms 966, within 60 days following the date of this letter, consistent with the procedure set forth in Notice 97-4. A copy of this letter should be attached.

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 Subs 1 through 18 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 with this office, copies of this letter are being sent to X's authorized representatives.

Sincerely yours,

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

Enclosures: 2
Copy of this letter
Copy for § 6110 purposes