Internal Revenue Service

Index Number: 1362.01-03

Department of the Treasury

200017050

Washington, DC 20224

Person to Contact:

Telephone Number:

Refer Reply To:
CC:DOM:P&SI:2 - PLR-119140-99

Date:
January 24, 2000

X =

A =

D1 =

D2 =

Year 1 =

Dear :

This letter responds to a letter dated October 26, 1999, and subsequent correspondence submitted by you as X's authorized representative on behalf of X, requesting a ruling under § 1362(b)(5) of the Internal Revenue Code.

The information submitted states that X was incorporated on D1 of Year 1. A, the president of X, represents that X was intended to be an S corporation effective from X's inception. This intent is evidenced by the Minutes of the First Meeting of X, dated D2 of Year 1, which contain a resolution by X's board of directors that X be taxed as a "small business corporation." A further represents that X's tax preparer was instructed to prepare a Form 2553, Election by a Small Business Corporation, for X, but that the tax preparer failed to prepare a Form 2553. Therefore, no Form 2553 was filed for X.

Section 1362(b)(5) of the Code provides that if -- (A) an election under § 1362(a) is made for any taxable year after the date prescribed by § 1362(b) for making such election for such taxable year or no such election is made for any taxable year, and (B) the Secretary determines that there was reasonable cause for the failure to timely make such election, the Secretary may treat such an election as timely made for such taxable year.

Based solely on the facts and the representations submitted, we conclude that X has established reasonable cause for failing to make a timely election to be an S corporation for X's Year 1 taxable year. Accordingly, provided that X makes an election to be an S corporation by filing a completed Form 2553 with the

appropriate service center effective for its Year 1 taxable year, within 60 days following the date of this letter, then such election will be treated as timely made for X's Year 1 taxable year. A copy of this letter should be attached to the Form 2553.

Except as specifically set forth above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provision of the Code, including whether X was or is a small business corporation under § 1361(b) of the Code.

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

Pursuant to a power of attorney on file with this office, a copy of this letter is being forwarded to X.

Sincerely yours,

(signed) H. GRACE KIM

H. GRACE KIM
Assistant to the Chief
Branch 2
Office of the Assistant
Chief Counsel
(Passthroughs and
Special Industries)

Enclosures: 2
Copy of this letter
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