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Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PT&E:01

PLR-120699-24

Date:

May 13, 2025

LEGEND

X =

Trust 1 =

Trust 2 =

Trust 3 =

Trust 4 =

State =

Date 1 =

Date 2 =

Date 3 =

Date 4 =

Dear :

This responds to a letter dated October 31, 2024, submitted on behalf of X by X's authorized representative, requesting relief under section 1362(f) of the Internal Revenue Code (the Code).

FACTS

The information submitted states that X was incorporated under the laws of State on Date 1 and elected to be treated as an S corporation, effective Date 1.

Trust 1 and Trust 2 acquired shares of X on Date 2. X represents that Trust 1 and Trust 2 were eligible to make an election to be treated as Electing Small Business Trusts (ESBTs) under § 1361(e) on and after Date 2. However, the trustee(s) of Trust 1 and Trust 2 failed to make ESBT elections effective Date 2. Consequently, Trust 1 and Trust 2 became ineligible shareholders of X, causing X's S corporation election to terminate on Date 2.

Trust 3 and Trust 4 acquired shares of X stock on Date 3. Prior to Date 4, X represents that Trust 3 and Trust 4 qualified as grantor trusts under subpart E of part I of subchapter J of Chapter 1 of the Code. On Date 4, Trust 3 and Trust 4 ceased to be grantor trusts. X represents that Trust 3 and Trust 4 were each eligible to be a qualified subchapter S trust (QSST) under § 1361(d); however, timely QSST elections were not made. Trust 3 and Trust 4 became ineligible shareholders of X on Date 4 which would have caused X's S corporation election to terminate on Date 4 if it had not already terminated on Date 2.

X represents that the circumstances resulting in the termination of its S corporation election were inadvertent and were not motivated by tax avoidance or retroactive tax planning. Additionally, X represents that X and its shareholders filed all returns consistent with X's status as an S corporation. X and its shareholder agreed to make any adjustments (consistent with the treatment of X as an S corporation) as may be required by the Secretary.

LAW AND ANALYSIS

Section 1362(a) provides that a small business corporation may elect to be an S corporation.

Section 1361(a)(1) provides that the term "S corporation" means, with respect to any taxable year, a small business corporation for which an election under § 1362(a) is in effect for such year.

Section 1361(b)(1)(B) provides that a "small business corporation" means a domestic corporation which is not an ineligible corporation and which does not (A) have more

than 100 shareholders, (B) have as a shareholder a person (other than an estate, a trust described in § 1361(c)(2), or an organization described in § 1361(c)(6)) who is not an individual, (C) have a nonresident alien as a shareholder, and (D) have more than 1 class of stock.

Section 1361(c)(2)(A)(v) provides that, for purposes of § 1361(b)(1)(B), an ESBT may be an S corporation shareholder.

Section 1361(e)(1)(A) provides that an ESBT means any trust if (i) such trust does not have as a beneficiary any person other than (I) an individual, (II) an estate, (III) an organization described in § 170(c)(2), (3), (4), or (5), or (IV) an organization described in § 170(c)(1) which holds a contingent interest in such trust and is not a potential current beneficiary, (ii) no interest in such trust was acquired by purchase, and (iii) an election under § 1361(e) applies to such trust.

Section 1361(e)(3) provides that an election under § 1361(e) shall be made by the trustee. Any such election shall apply to the taxable year of the trust for which made and all subsequent taxable years of such trust unless revoked with the consent of the Secretary.

Section 1.1361-1(m)(2)(i) provides, in relevant part, that the trustee of the trust must make the ESBT election by signing and filing, with the service center where the S corporation files its income tax return, a statement that meets the requirements of § 1.1361-1(m)(2)(ii). Generally, only one ESBT election is made for the trust, regardless of the number of S corporations whose stock is held by the ESBT. However, if the ESBT holds stock in multiple S corporations that file in different service centers, the ESBT election must be filed with all the relevant service centers where the corporations file their income tax returns. This requirement applies only at the time of the initial ESBT election; if the ESBT later acquires stock in an S corporation which files its income tax return at a different service center, a new ESBT election is not required.

Section 1.1361-1(m)(2)(iii) provides that the trustee of an ESBT must file the ESBT election within the time requirements prescribed in § 1.1361-1(j)(6)(iii) for filing a QSST election (generally within the 16-day-and-2-month period beginning on the day that the stock is transferred to the trust).

Section 1361(c)(2)(A)(i) provides that for purposes of § 1361(b)(1)(B), a trust all of which is treated (under subpart E of part I of subchapter J of chapter 1) as owned by an individual who is a citizen or resident of the United States may be a shareholder of an S corporation. Section 1361(c)(2)(B)(i) provides that for purposes of § 1361(b)(1), in the case of a trust described in § 1361(c)(2)(A)(i), the deemed owner shall be treated as the shareholder.

Section 1361(d)(1) provides, in part, that in the case of a QSST with respect to which a beneficiary makes an election under § 1361(d)(2) (A) such trust shall be treated as a

trust described in § 1361(c)(2)(A)(i), (B) for purposes of § 678(a), the beneficiary of such trust shall be treated as the owner of that portion of the trust which consists of stock in an S corporation with respect to which the election under § 1361(d)(2) is made.

Section 1361(d)(3) defines a QSST as a trust (A) the terms of which require that (i) during the life of the current income beneficiary, there shall be only one income beneficiary of the trust; (ii) any corpus distributed during the life of the current income beneficiary may be distributed only to such beneficiary; (iii) the income interest of the current income beneficiary in the trust shall terminate on the earlier of such beneficiary's death or the termination of the trust; and (iv) upon termination of the trust during the life of the current income beneficiary, the trust shall distribute all of its assets to that beneficiary; and (B) all of the income (within the meaning of § 643(b)) of which is distributed (or required to be distributed) currently to one individual who is a citizen or resident of the United States.

Section 1362(d)(2)(A) provides that an election under § 1362(a) shall be terminated whenever the corporation ceases to be a small business corporation. A termination of an S corporation under § 1362(d)(2) is effective on and after the date of cessation.

Section 1362(f) provides, in relevant part, that if (1) an election under § 1362(a) by any corporation was terminated under § 1362(d)(2) or (3); (2) the Secretary determines that the circumstances resulting in such termination were inadvertent; (3) no later than a reasonable period of time after discovery of the circumstances resulting in the termination, steps were taken so that the corporation for which the termination occurred is a small business corporation; and (4) the corporation for which the termination occurred, and each person who was a shareholder of the corporation at any time during the period specified under § 1362(f), agrees to make the adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary for that period, then, notwithstanding the circumstances resulting in such termination, the corporation shall be treated as an S corporation during the period specified by the Secretary.

CONCLUSION

Based solely on the facts submitted and representations made, we conclude that X's S corporation election terminated on Date 2, when Trust 1 and Trust 2 became ineligible shareholders. We also conclude that X's S corporation election would have terminated on Date 4 when Trust 3 and Trust 4 became ineligible shareholders. We further conclude that the termination of X's S election was inadvertent within the meaning of § 1362(f). Therefore, pursuant to the provisions of § 1362(f), X will be treated as an S corporation effective Date 2 and thereafter, provided X's S corporation election is valid and not otherwise terminated under § 1362(d).

This relief is contingent on (i) the trustee(s) of Trust 1 and Trust 2 filing ESBT elections for each of Trust 1 and Trust 2 effective Date 2 with the appropriate service center

within 120 days from the date of this letter, attaching a copy of this letter to the ESBT elections and (ii) the beneficiary or beneficiaries of Trust 3 and Trust 4 filing QSST elections with the appropriate service center within 120 days from the date of this letter effective Date 4, attaching a copy of this letter to the ESBT elections.

Except as specifically ruled 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 and the regulations thereunder. Specifically, we express or imply no opinion regarding X's eligibility to be an S corporation, Trust 1's and Trust 2's eligibility to be ESBTs, or the eligibility of Trust 3 and Trust 4 to be treated as QSSTs.

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 who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the power of attorney on file with this office, we are sending a copy of this letter to X's authorized representatives.

Sincerely,

Christiaan T. Cleary
Senior Technician Reviewer, Branch 1
Office of the Associate Chief Counsel
(Passthroughs, Trusts, and Estates)

Enclosure (1)

cc: