Internal Revenue Service

Index No.: 1362.00-00

Department of the Treasury

Washington, DC 20224

199903044

Contact Person:

Telephone Number:

In Reference to:

CC:DOM:P&SI:2 - PLR-115476-98

Date: OCT 16 1998

X =

A =

B =

D1 =

D2 =

Year 1 =

Dear

This responds to a letter dated July 29, 1998, submitted on X's behalf by X's authorized representative, requesting relief for a late election to be an S corporation.

The information submitted states that X was incorporated on D1. X's first taxable year commenced on D2 of Year 1. The shareholders of X are A and B. A, the president of X, represents that when X was incorporated, its shareholders, acting through their then accountant, sent a Form 2553, Election by a Small Business Corporation, and a Form SS-4, Application for Employer Identification Number, to the Service. However, the Service has no record of receiving the Form 2553 for X.

Section 1362(b)(5) of the Internal Revenue 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 first 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 of 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 ruled above, no opinion is expressed concerning the federal tax consequences of the facts described above under any other provisions 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 the power of attorney on file with this office, a copy of this letter is being sent to each of X's authorized representatives.

Sincerely yours,

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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