Internal Revenue Service

Department of the Treasury

Washington, DC 20224

Index No.: 1362.00-00

Contact Person:

199902015

Telephone Number:

In Reference to:

Date: CC:DOM:P&SI:2 PLR-113446-98

OCT 16 1998

X =

A =

B =

D1 =

Year 1 =

Dear

This letter responds to your letter dated June 25, 1998 and subsequent correspondence, 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 A and B, the sole shareholders of X, relied on X's attorney to file the forms necessary for X to elect to be an S corporation beginning Year 1. However, the attorney failed to timely file a Form 2553, Election by a Small Business Corporation, for X's Year 1 taxable year.

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

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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(j)(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 sent to your authorized representative.

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
Copy for § 6110 purposes

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