

Election by a Small Business Corporation
 (Under section 1362 of the Internal Revenue Code)

OMB No. 1545-0146

▶ See Parts II and III on page 3 and the separate instructions.
 ▶ The corporation can fax this form to the IRS (see separate instructions).

Note. This election to be an S corporation can be accepted only if all the tests are met under **Who May Elect** on page 1 of the instructions; all shareholders have signed the consent statement; an officer has signed below; and the exact name and address of the corporation and other required form information are provided.

Part I	Election Information	
	Name (see instructions)	A Employer identification number
	Number, street, and room or suite no. (If a P.O. box, see instructions.)	B Date incorporated
Type or Print	City or town, state, and ZIP code	C State of incorporation

D Check the applicable box(es) if the corporation, after applying for the EIN shown in **A** above, changed its name or address

E Election is to be effective for tax year beginning (month, day, year) (see instructions) ▶ ____ / ____ / ____

Caution. A corporation (entity) making the election for its first tax year in existence will usually enter the beginning date of a short tax year that begins on a date other than January 1.

F Selected tax year:

- (1) Calendar year
- (2) Fiscal year ending (month and day) ▶ _____
- (3) 52-53-week year ending with reference to the month of December
- (4) 52-53-week year ending with reference to the month of ▶ _____

If box (2) or (4) is checked, complete Part II

G If more than 100 shareholders are listed for item J (see page 2), check this box if treating members of a family as one shareholder results in no more than 100 shareholders (see test 2 under **Who May Elect** in the instructions) ▶

H Name and title of officer or legal representative who the IRS may call for more information	I Telephone number of officer or legal representative ()
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If this S corporation election is being filed with Form 1120S, I declare that I had reasonable cause for not filing Form 2553 timely, and if this election is made by an entity eligible to elect to be treated as a corporation, I declare that I also had reasonable cause for not filing an entity classification election timely. See below for my explanation of the reasons the election or elections were not made on time (see instructions).

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Sign Here ▶ Under penalties of perjury, I declare that I have examined this election, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

 Signature of officer

 Title

 Date

Part I Election Information (continued)

J Name and address of each shareholder or former shareholder required to consent to the election. (See the instructions for column K.)	K Shareholders' Consent Statement. Under penalties of perjury, we declare that we consent to the election of the above-named corporation to be an S corporation under section 1362(a) and that we have examined this consent statement, including accompanying schedules and statements, and to the best of our knowledge and belief, it is true, correct, and complete. We understand our consent is binding and may not be withdrawn after the corporation has made a valid election. (Sign and date below.)		L Stock owned or percentage of ownership (see instructions)		M Social security number or employer identification number (see instructions)	N Shareholder's tax year ends (month and day)
			Number of shares or percentage of ownership	Date(s) acquired		
	Signature	Date				

Part II Selection of Fiscal Tax Year (see instructions)

Note. All corporations using this part must complete item O and item P, Q, or R.

O Check the applicable box to indicate whether the corporation is:

- 1. A new corporation **adopting** the tax year entered in item F, Part I.
- 2. An existing corporation **retaining** the tax year entered in item F, Part I.
- 3. An existing corporation **changing** to the tax year entered in item F, Part I.

P Complete item P if the corporation is using the automatic approval provisions of Rev. Proc. 2006-46, 2006-45 I.R.B. 859, to request **(1)** a natural business year (as defined in section 5.07 of Rev. Proc. 2006-46) or **(2)** a year that satisfies the ownership tax year test (as defined in section 5.08 of Rev. Proc. 2006-46). Check the applicable box below to indicate the representation statement the corporation is making.

- 1. Natural Business Year ▶ I represent that the corporation is adopting, retaining, or changing to a tax year that qualifies as its natural business year (as defined in section 5.07 of Rev. Proc. 2006-46) and has attached a statement showing separately for each month the gross receipts for the most recent 47 months (see instructions). I also represent that the corporation is not precluded by section 4.02 of Rev. Proc. 2006-46 from obtaining automatic approval of such adoption, retention, or change in tax year.
- 2. Ownership Tax Year ▶ I represent that shareholders (as described in section 5.08 of Rev. Proc. 2006-46) holding more than half of the shares of the stock (as of the first day of the tax year to which the request relates) of the corporation have the same tax year or are concurrently changing to the tax year that the corporation adopts, retains, or changes to per item F, Part I, and that such tax year satisfies the requirement of section 4.01(3) of Rev. Proc. 2006-46. I also represent that the corporation is not precluded by section 4.02 of Rev. Proc. 2006-46 from obtaining automatic approval of such adoption, retention, or change in tax year.

Note. If you do not use item P and the corporation wants a fiscal tax year, complete either item Q or R below. Item Q is used to request a fiscal tax year based on a business purpose and to make a back-up section 444 election. Item R is used to make a regular section 444 election.

Q Business Purpose—To request a fiscal tax year based on a business purpose, check box Q1. See instructions for details including payment of a user fee. You may also check box Q2 and/or box Q3.

1. Check here ▶ if the fiscal year entered in item F, Part I, is requested under the prior approval provisions of Rev. Proc. 2002-39, 2002-22 I.R.B. 1046. Attach to Form 2553 a statement describing the relevant facts and circumstances and, if applicable, the gross receipts from sales and services necessary to establish a business purpose. See the instructions for details regarding the gross receipts from sales and services. If the IRS proposes to disapprove the requested fiscal year, do you want a conference with the IRS National Office?

Yes No

2. Check here ▶ to show that the corporation intends to make a back-up section 444 election in the event the corporation’s business purpose request is not approved by the IRS. (See instructions for more information.)

3. Check here ▶ to show that the corporation agrees to adopt or change to a tax year ending December 31 if necessary for the IRS to accept this election for S corporation status in the event (1) the corporation’s business purpose request is not approved and the corporation makes a back-up section 444 election, but is ultimately not qualified to make a section 444 election, or (2) the corporation’s business purpose request is not approved and the corporation did not make a back-up section 444 election.

R Section 444 Election—To make a section 444 election, check box R1. You may also check box R2.

1. Check here ▶ to show that the corporation will make, if qualified, a section 444 election to have the fiscal tax year shown in item F, Part I. To make the election, you must complete **Form 8716**, Election To Have a Tax Year Other Than a Required Tax Year, and either attach it to Form 2553 or file it separately.

2. Check here ▶ to show that the corporation agrees to adopt or change to a tax year ending December 31 if necessary for the IRS to accept this election for S corporation status in the event the corporation is ultimately not qualified to make a section 444 election.

Part III Qualified Subchapter S Trust (QSST) Election Under Section 1361(d)(2)*

Income beneficiary’s name and address	Social security number
Trust’s name and address	Employer identification number
Date on which stock of the corporation was transferred to the trust (month, day, year) ▶ / /	

In order for the trust named above to be a QSST and thus a qualifying shareholder of the S corporation for which this Form 2553 is filed, I hereby make the election under section 1361(d)(2). Under penalties of perjury, I certify that the trust meets the definitional requirements of section 1361(d)(3) and that all other information provided in Part III is true, correct, and complete.

Signature of income beneficiary or signature and title of legal representative or other qualified person making the election _____ Date _____

*Use Part III to make the QSST election only if stock of the corporation has been transferred to the trust on or before the date on which the corporation makes its election to be an S corporation. The QSST election must be made and filed separately if stock of the corporation is transferred to the trust **after** the date on which the corporation makes the S election.

Instructions for Form 2553

(Rev. December 2007)

Election by a Small Business Corporation



Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

For tax years ending on or after December 31, 2007, certain corporations (entities) with reasonable cause for not timely filing Form 2553 can request to have the form treated as timely filed by filing Form 2553 as an attachment to Form 1120S, U.S. Income Tax Return for an S Corporation. An entry space for an explanation of reasonable cause was added to page 1 of the form. See *Relief for Late Elections*.

General Instructions

Purpose of Form

A corporation or other entity eligible to elect to be treated as a corporation must use Form 2553 to make an election under section 1362(a) to be an S corporation. An entity eligible to elect to be treated as a corporation that meets certain tests discussed below will be treated as a corporation as of the effective date of the S corporation election and does not need to file Form 8832, Entity Classification Election.

The income of an S corporation generally is taxed to the shareholders of the corporation rather than to the corporation itself. However, an S corporation may still owe tax on certain income. For details, see *Tax and Payments* in the Instructions for Form 1120S.

Who May Elect

A corporation or other entity eligible to elect to be treated as a corporation may elect to be an S corporation only if it meets all the following tests.

1. It is (a) a domestic corporation, or (b) a domestic entity eligible to elect to be treated as a corporation, that timely files Form 2553 and meets all the other tests listed below. If Form 2553 is not timely filed, see *Relief for Late Elections* on page 2.
2. It has no more than 100 shareholders. You can treat a husband and wife (and their estates) as one shareholder for this test. You can also treat all members of a family (as defined in section 1361(c)(1)(B)) and their estates as one shareholder for this test. For additional situations in which certain entities will be treated as members of a family, see Notice 2005-91, 2005-51 I.R.B. 1164. All others are treated as separate shareholders. For details, see section 1361(c)(1).
3. Its only shareholders are individuals, estates, exempt organizations described in section 401(a) or 501(c)(3), or certain trusts described in section 1361(c)(2)(A).

For information about the section 1361(d)(2) election to be a qualified subchapter S trust (QSST), see the instructions for Part III. For information about the section 1361(e)(3) election to be an electing small business trust (ESBT), see Regulations section 1.1361-1(m). For guidance on how to convert a QSST to an ESBT, see Regulations section 1.1361-1(j)(12). If these elections were not timely made, see Rev. Proc. 2003-43, 2003-23 I.R.B. 998.

4. It has no nonresident alien shareholders.
5. It has only one class of stock (disregarding differences in voting rights). Generally, a corporation is treated as having only one class of stock if all outstanding shares of the corporation's stock confer identical rights to distribution and liquidation proceeds. See Regulations section 1.1361-1(l) for details.
6. It is not one of the following ineligible corporations.
 - a. A bank or thrift institution that uses the reserve method of accounting for bad debts under section 585.
 - b. An insurance company subject to tax under subchapter L of the Code.
 - c. A corporation that has elected to be treated as a possessions corporation under section 936.
 - d. A domestic international sales corporation (DISC) or former DISC.
7. It has or will adopt or change to one of the following tax years.
 - a. A tax year ending December 31.
 - b. A natural business year.
 - c. An ownership tax year.
 - d. A tax year elected under section 444.
 - e. A 52-53-week tax year ending with reference to a year listed above.
 - f. Any other tax year (including a 52-53-week tax year) for which the corporation establishes a business purpose.For details on making a section 444 election or requesting a natural business, ownership, or other business purpose tax year, see the instructions for Part II.
8. Each shareholder consents as explained in the instructions for column K.

See sections 1361, 1362, and 1378, and their related regulations for additional information on the above tests.

A parent S corporation can elect to treat an eligible wholly-owned subsidiary as a qualified subchapter S subsidiary. If the election is made, the subsidiary's assets, liabilities, and items of income, deduction, and credit generally are treated as those of the parent. For details, see Form 8869, Qualified Subchapter S Subsidiary Election.

When To Make the Election

Complete and file Form 2553:

- No more than two months and 15 days after the beginning of the tax year the election is to take effect, or
- At any time during the tax year preceding the tax year it is to take effect.

For this purpose, the 2 month period begins on the day of the month the tax year begins and ends with the close of the day before the numerically corresponding day of the second calendar month following that month. If there is no corresponding day, use the close of the last day of the calendar month.

Example 1. No prior tax year. A calendar year small business corporation begins its first tax year on January 7. The two month period ends March 6 and 15 days after that is March 21. To be an S corporation beginning with its first tax year, the corporation must file Form 2553 during the period that begins January 7 and ends March 21. Because

the corporation had no prior tax year, an election made before January 7 will not be valid.

Example 2. Prior tax year. A calendar year small business corporation has been filing Form 1120 as a C corporation but wishes to make an S election for its next tax year beginning January 1. The two month period ends February 28 (29 in leap years) and 15 days after that is March 15. To be an S corporation beginning with its next tax year, the corporation must file Form 2553 during the period that begins the first day (January 1) of its last year as a C corporation and ends March 15th of the year it wishes to be an S corporation. Because the corporation had a prior tax year, it can make the election at any time during that prior tax year.

Example 3. Tax year less than 2 1/2 months. A calendar year small business corporation begins its first tax year on November 8. The two month period ends January 7 and 15 days after that is January 22. To be an S corporation beginning with its short tax year, the corporation must file Form 2553 during the period that begins November 8 and ends January 22. Because the corporation had no prior tax year, an election made before November 8 will not be valid.

Relief for Late Elections

A late election to be an S corporation generally is effective for the tax year following the tax year beginning on the date entered on line E of Form 2553. However, relief for a late election may be available if the corporation can show that the failure to file on time was due to reasonable cause.

To request relief for a late election when the tax year beginning on the date entered on line E ends on or after December 31, 2007, a corporation that meets the following requirements can explain the reasonable cause in the designated space on page 1 of Form 2553.

- The corporation fails to qualify to elect to be an S corporation (see *Who May Elect* on page 1) solely because of the failure to timely file Form 2553.
- The corporation has reasonable cause for its failure to timely file Form 2553.
- The corporation has not filed a tax return for the tax year beginning on the date entered on line E of Form 2553.
- The corporation files Form 2553 as an attachment to Form 1120S no later than 6 months after the due date of Form 1120S (excluding extensions) for the tax year beginning on the date entered on line E of Form 2553.
- No taxpayer whose tax liability or tax return would be affected by the S corporation election (including all shareholders of the S corporation) has reported inconsistently with the S corporation election on any affected return for the tax year beginning on the date entered on line E of Form 2553.

Similar relief is available for an entity eligible to elect to be treated as a corporation (see the instructions for Form 8832) electing to be treated as a corporation as of the date entered on line E of Form 2553. For more details, see Rev. Proc. 2007-62, 2007-41 I.R.B. 786.

To request relief for a late election when the above requirements are not met, the corporation generally must request a private letter ruling and pay a user fee in accordance with Rev. Proc. 2008-1, 2008-1 I.R.B. 1 (or its successor). However, the ruling and user fee requirements may not apply if relief is available under the following revenue procedures.

- If an entity eligible to elect to be treated as a corporation (a) failed to timely file Form 2553, and (b) has not elected to be treated as a corporation, see Rev. Proc. 2004-48, 2004-32 I.R.B. 172.
- If a corporation failed to timely file Form 2553, see Rev. Proc. 2003-43, 2003-23 I.R.B. 998.

- If Form 1120S was filed without an S corporation election and neither the corporation nor any shareholder was notified by the IRS of any problem with the S corporation status within 6 months after the return was timely filed, see Rev. Proc. 97-48, 1997-43 I.R.B. 19.

Where To File

Generally, send the original election (no photocopies) or fax it to the Internal Revenue Service Center listed below. If the corporation files this election by fax, keep the original Form 2553 with the corporation's permanent records. However, certain late elections can be filed attached to Form 1120S. See *Relief for Late Elections* above.

If the corporation's principal business, office, or agency is located in:	Use the following address or fax number:
Connecticut, Delaware, District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin	Department of the Treasury Internal Revenue Service Center Cincinnati, OH 45999 Fax: (859) 669-5748
Alabama, Alaska, Arizona, Arkansas, California, Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming	Department of the Treasury Internal Revenue Service Center Ogden, UT 84201 Fax: (801) 620-7116

Acceptance or Nonacceptance of Election

The service center will notify the corporation if its election is accepted and when it will take effect. The corporation will also be notified if its election is not accepted. The corporation should generally receive a determination on its election within 60 days after it has filed Form 2553. If box Q1 in Part II is checked, the corporation will receive a ruling letter from the IRS that either approves or denies the selected tax year. When box Q1 is checked, it will generally take an additional 90 days for the Form 2553 to be accepted.

Care should be exercised to ensure that the IRS receives the election. If the corporation is not notified of acceptance or nonacceptance of its election within 2 months of the date of filing (date faxed or mailed), or within 5 months if box Q1 is checked, take follow-up action by calling 1-800-829-4933.

If the IRS questions whether Form 2553 was filed, an acceptable proof of filing is (a) a certified or registered mail receipt (timely postmarked) from the U.S. Postal Service, or its equivalent from a designated private delivery service (see Notice 2004-83, 2004-52 I.R.B. 1030 (or its successor)); (b) Form 2553 with an accepted stamp; (c) Form 2553 with a stamped IRS received date; or (d) an IRS letter stating that Form 2553 has been accepted.



Do not file Form 1120S for any tax year before the year the election takes effect. If the corporation is now required to file Form 1120, U.S. Corporation Income Tax Return, or any other applicable tax return, continue filing it until the election takes effect.

End of Election

Once the election is made, it stays in effect until it is terminated or revoked. IRS consent generally is required for another election by the corporation (or a successor corporation) on Form 2553 for any tax year before the 5th tax year after the first tax year in which the termination or revocation took effect. See Regulations section 1.1362-5 for details.

Specific Instructions

Part I

Name and Address

Enter the corporation's true name as stated in the corporate charter or other legal document creating it. If the corporation's mailing address is the same as someone else's, such as a shareholder's, enter "C/O" and this person's name following the name of the corporation. Include the suite, room, or other unit number after the street address. If the Post Office does not deliver to the street address and the corporation has a P.O. box, show the box number instead of the street address. If the corporation changed its name or address after applying for its employer identification number, be sure to check the box in item D of Part I.

Item A. Employer Identification Number (EIN)

Enter the corporation's EIN. If the corporation does not have an EIN, it must apply for one. An EIN can be applied for:

- Online—Click on the EIN link at www.irs.gov/businesses/small. The EIN is issued immediately once the application information is validated.
- By telephone at 1-800-829-4933.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

If the corporation has not received its EIN by the time the return is due, enter "Applied For" and the date you applied in the space for the EIN. For more details, see the Instructions for Form SS-4.

Item E. Effective Date of Election



Form 2553 generally must be filed no later than 2 months and 15 days after the date entered for item E. For details and exceptions, see When To Make the Election on page 1.

A corporation (or entity eligible to elect to be treated as a corporation) making the election effective for its first tax year in existence should enter the earliest of the following dates: (a) the date the corporation (entity) first had shareholders (owners), (b) the date the corporation (entity) first had assets, or (c) the date the corporation (entity) began doing business.



When the corporation (entity) is making the election for its first tax year in existence, it will usually enter the beginning date of a tax year that begins on a date other than January 1.

A corporation (entity) not making the election for its first tax year in existence that is keeping its current tax year

should enter the beginning date of the first tax year for which it wants the election to be effective.

A corporation (entity) not making the election for its first tax year in existence that is changing its tax year and wants to be an S corporation for the short tax year needed to switch tax years should enter the beginning date of the short tax year. If the corporation (entity) does not want to be an S corporation for this short tax year, it should enter the beginning date of the tax year following this short tax year and file Form 1128, Application To Adopt, Change, or Retain a Tax Year. If this change qualifies as an automatic approval request (Form 1128, Part II), file Form 1128 as an attachment to Form 2553. If this change qualifies as a ruling request (Form 1128, Part III), file Form 1128 separately. If filing Form 1128, enter "Form 1128" on the dotted line to the left of the entry space for item E.

Item F

Check the box that corresponds with the S corporation's selected tax year. If box (2) or (4) is checked, provide the additional information about the tax year, and complete Part II of the form.

Signature

Form 2553 must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other corporate officer (such as tax officer) authorized to sign.

If Form 2553 is not signed, it will not be considered timely filed.

Column K. Shareholders' Consent Statement

For an election filed before the effective date entered for item E, only shareholders who own stock on the day the election is made need to consent to the election.

For an election filed on or after the effective date entered for item E, all shareholders or former shareholders who owned stock at any time during the period beginning on the effective date entered for item E and ending on the day the election is made must consent to the election.

If the corporation timely filed an election, but one or more shareholders did not timely file a consent, see Regulations section 1.1362-6(b)(3)(iii). If the shareholder was a community property spouse who was a shareholder solely because of a state community property law, see Rev. Proc. 2004-35, 2004-23 I.R.B. 1029.

Each shareholder consents by signing and dating either in column K or on a separate consent statement. The following special rules apply in determining who must sign.

- If a husband and wife have a community interest in the stock or in the income from it, both must consent.
- Each tenant in common, joint tenant, and tenant by the entirety must consent.
- A minor's consent is made by the minor, legal representative of the minor, or a natural or adoptive parent of the minor if no legal representative has been appointed.
- The consent of an estate is made by the executor or administrator.
- The consent of an electing small business trust (ESBT) is made by the trustee and, if a grantor trust, the deemed owner. See Regulations section 1.1362-6(b)(2)(iv) for details.
- If the stock is owned by a qualified subchapter S trust (QSST), the deemed owner of the trust must consent.
- If the stock is owned by a trust (other than an ESBT or QSST), the person treated as the shareholder by section 1361(c)(2)(B) must consent.

Continuation sheet or separate consent statement. If you need a continuation sheet or use a separate consent statement, attach it to Form 2553. It must contain the name, address, and EIN of the corporation and the information requested in columns J through N of Part I.

Column L

Enter the number of shares of stock each shareholder owns on the date the election is filed and the date(s) the stock was acquired. Enter -0- for any former shareholders listed in column J. An entity without stock, such as a limited liability company (LLC), should enter the percentage of ownership and date(s) acquired.

Column M

Enter the social security number of each individual listed in column J. Enter the EIN of each estate, qualified trust, or exempt organization.

Column N

Enter the month and day that each shareholder's tax year ends. If a shareholder is changing his or her tax year, enter the tax year the shareholder is changing to, and attach an explanation indicating the present tax year and the basis for the change (for example, an automatic revenue procedure or a letter ruling request).

Part II

Complete Part II if you checked box (2) or (4) in Part I, Item F.

Note. Corporations cannot obtain automatic approval of a fiscal year under the natural business year (box P1) or ownership tax year (box P2) provisions if they are under examination, before an appeals (area) office, or before a federal court without meeting certain conditions and attaching a statement to the application. For details, see section 7.03 of Rev. Proc. 2006-46, 2006-45 I.R.B. 859.

Box P1

A corporation that does not have a 47-month period of gross receipts cannot automatically establish a natural business year.

Box Q1

For examples of an acceptable business purpose for requesting a fiscal tax year, see section 5.02 of Rev. Proc. 2002-39, 2002-22 I.R.B. 1046, and Rev. Rul. 87-57, 1987-2 C.B. 117.

Attach a statement showing the relevant facts and circumstances to establish a business purpose for the requested fiscal year. For details on what is sufficient to establish a business purpose, see section 5.02 of Rev. Proc. 2002-39.

If your business purpose is based on one of the natural business year tests provided in section 5.03 of Rev. Proc. 2002-39, identify which test you are using (the 25% gross receipts, annual business cycle, or seasonal business test). For the 25% gross receipts test, provide a schedule showing the amount of gross receipts for each month for the most recent 47 months. For either the annual business cycle or seasonal business test, provide the gross receipts from sales and services (and inventory costs, if applicable) for each month of the short period, if any, and the three immediately preceding tax years. If the corporation has been in existence for less than three tax years, submit figures for the period of existence.

If you check box Q1, you will be charged a user fee of \$3,200 (\$1,500 if your request is received before February 2, 2008) (subject to change by Rev. Proc. 2009-1 or its successor). Do not pay the fee when filing Form 2553. The

service center will send Form 2553 to the IRS in Washington, DC, who, in turn, will notify the corporation that the fee is due.

Box Q2

If the corporation makes a back-up section 444 election for which it is qualified, then the section 444 election will take effect in the event the business purpose request is not approved. In some cases, the tax year requested under the back-up section 444 election may be different than the tax year requested under business purpose. See Form 8716, Election To Have a Tax Year Other Than a Required Tax Year, for details on making a back-up section 444 election.

Boxes Q3 and R2

If the corporation is not qualified to make the section 444 election after making the item Q2 back-up section 444 election or indicating its intention to make the election in item R1, and therefore it later files a calendar year return, it should write "Section 444 Election Not Made" in the top left corner of the first calendar year Form 1120S it files.

Part III

In Part III, the income beneficiary (or legal representative) of certain qualified subchapter S trusts (QSSTs) may make the QSST election required by section 1361(d)(2). Part III may be used to make the QSST election only if corporate stock has been transferred to the trust on or before the date on which the corporation makes its election to be an S corporation. However, a statement can be used instead of Part III to make the election. If there was an inadvertent failure to timely file a QSST election, see the relief provisions under Rev. Proc. 2003-43.

Note. Use Part III only if you make the election in Part I. Form 2553 cannot be filed with only Part III completed.

The deemed owner of the QSST must also consent to the S corporation election in column K of Form 2553.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will depend on individual circumstances. The estimated average time is:

Recordkeeping	9 hr., 48 min.
Learning about the law or the form	2 hr., 33 min.
Preparing, copying, assembling, and sending the form to the IRS	4 hr., 1 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File* on page 2.

212-373-3671

212-492-0671

jsoojian@paulweiss.com

October 5, 2010

CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Department of the Treasury
Internal Revenue Service Center
Cincinnati, Ohio 45999

Lusbermil, Inc. (EIN 27-3531144)

Dear Sir or Madam:

I enclose Form 2553 for the above-referenced corporation.

Kindly stamp a copy of this cover letter as a receipt for the enclosures and return it to me in the post-paid envelope that has been provided.

Thank you for your cooperation.

Very truly yours,

Jessica D. Soojian

Enclosure

IRS Circular 230 disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this document is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter that is contained in this document.



CT-6

(7/07)

New York State Department of Taxation and Finance

Election by a Federal S Corporation to be Treated As a New York S Corporation

Employer identification number		This election is to be effective for the tax year beginning (mm-dd-yy)		For office use only	
Mailing address	Legal name of corporation		Mark an X in the box if federal election is pending..... <input type="checkbox"/>		Date received
	DBA or trade name (if any)		Telephone number ()		
	Mailing name (if different from legal name)		State of incorporation	Date of incorporation	
	C/o		Date began business in New York State		
	Number and street or PO box		Number of shares issued and outstanding (from federal Form 2553)		
City		State	ZIP code		
The federal election to treat the corporation as an S corporation is effective for the tax year beginning			Total number of shareholders	Number of shareholders who are nonresidents of New York State	

Indicate the month and day your tax year ends _____

Shareholders' unanimous consent and individual affirmation: By signing below each shareholder of the above corporation elects to include all amounts required by Tax Law, Article 22, section 660, in computing his or her New York taxable income and certifies that the personal information given below is to the best of his or her knowledge and belief true, correct, and complete.

See instructions if a continuation sheet or a separate consent statement is needed.

A Name and address of each shareholder (include ZIP code)	B Social security number or employer identification number	C Stock owned		D Shareholder's signature (see instructions) For this election to be valid, all shareholders must signify consent by signing below.
		Number of shares	Date acquired	

Certification: I certify that this election and any attachments are to the best of my knowledge and belief true, correct, and complete.

Signature of authorized person		Official title		Date	
Paid preparer use only	Signature of individual preparing this election		Firm's name (or yours if self-employed)		Telephone number ()
	Address	City	State	ZIP code	ID number
					Date

See instructions for where to file.



Instructions for Form CT-6

Election by a Federal S Corporation to be Treated As a New York S Corporation

General information

A federal S corporation may elect to be taxed as a New York S corporation (Tax Law section 660(a)) by filing Form CT-6.

Once the New York State (NYS) Tax Department has approved the filing of Form CT-6:

- The corporation will be treated as a New York S corporation under Article 9-A, section 208.1-A or Article 32, section 1450(f), of the Tax Law and file its New York S corporation franchise tax return on Form CT-3-S or Form CT-32-S.
- Each individual shareholder of the New York S corporation will include his or her share of the New York S corporation's items of income, loss and deductions under Article 22, section 660, of the Tax Law and file an individual income tax return on Form IT-201, *Resident Income Tax Return*, or Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*.
- A shareholder that is a 501(c)(3) organization will include its share of the New York S corporation's items of income, loss, and deductions under Article 13, section 292(a)(5) of the Tax Law and file its tax return on Form CT-13, *Unrelated Business Income Tax Return*.

For additional information, see sections 660 and 292(a)(5) of the New York State Tax Law and Publication 35, *New York Tax Treatment of S Corporations and Their Shareholders*.

Corporate franchise tax

A federal S corporation that elects to be a New York S corporation must file Form CT-3-S or CT-32-S within 2½ months after the end of each tax year.

Penalty for late filing

If the New York S corporation fails to file Form CT-3-S or CT-32-S, or fails to include the required shareholder information, it must pay a penalty of \$50 per shareholder per month or fraction of a month that the failure continues, for up to five months. Any individual or Article 13 taxpayer who was a shareholder during any part of the year shall be included in the shareholder information.

Who may elect

To elect to treat a corporation as a New York S corporation, you must meet the following requirements:

- The corporation must be a federal S corporation. If your federal election is pending, file your New York election and indicate that your federal election is pending. When you receive federal approval, forward a copy to the Tax Department at the address listed under *Where to file*.
- The corporation must be a general business corporation taxable under Article 9-A or a banking corporation taxable under Article 32 of the New York State Tax Law. If a corporation is taxable under Article 9 or 33 of the Tax Law, it cannot elect to be a New York S corporation. It is considered an *excluded corporation*.
- All of the corporation's shareholders must consent to the New York S election.
- A qualified subchapter S subsidiary (QSSS) may not make the New York S election. Only the parent corporation of the QSSS can make the New York S election.

A federal S corporation that is not taxable in New York may make a New York S election if it is the parent of a QSSS which is taxable in New York, if neither the parent nor the QSSS is an excluded corporation. If the parent does not make a New York S election, the QSSS will be taxed as a New York C corporation. See TSB-M-97(6)C, *Important Notice: Attention Shareholders of S Corps*, for details regarding the treatment of QSSS's in New York State.

When to make the election

To be effective for the tax year, file Form CT-6 at any time during the preceding tax year, or on or before the fifteenth day of the third month of the tax year to which the election will apply. An election made no later than the fifteenth day of the third month after the beginning of a tax year that is less than two and a half months long will be considered timely filed for that tax year. However, an election made on or before the fifteenth day of the third month of the tax year to which the election will apply, will not be effective until the following tax year if:

- a) The corporation did not qualify as a federal S corporation, under section 1361(b) of the Internal Revenue Code (IRC) on one or more days of the tax year prior to the date the election was made; or
- b) One or more of the shareholders who held stock before the date of election did not consent to the corporation being a New York S corporation.

If the corporation is organized within New York State and anticipates being a New York State S corporation for its first tax year, it must file Form CT-6 on or before the fifteenth day of the third month following the **effective date of its certificate of incorporation**.

If the corporation is organized outside New York State, begins to do business in New York State, and anticipates being a New York S corporation for its first tax year, it must file CT-6 on or before the fifteenth day of the third month following the date it **began doing business in New York State**.

Examples:

A corporation was a New York C corporation for the tax year 1/1/07 - 12/31/07. The corporation anticipates being a New York S corporation for the tax year 1/1/08 - 12/31/08. The corporation must file Form CT-6 on or before March 17, 2008, to be a New York S corporation for the tax year 1/1/08 - 12/31/08.

*A corporation's **effective date of incorporation** in New York State is 6/13/08. The corporation anticipates being a New York S corporation for its first tax year 6/13/08 - 12/31/08. The corporation must file Form CT-6 on or before August 28, 2008, to be a New York S corporation for the tax year 6/13/08 - 12/31/08.*

*A corporation's date of incorporation outside New York State is 2/6/08. The corporation anticipates being a New York S corporation for its first tax year 2/6/08 - 12/31/08. The corporation began **doing business in New York State** on 3/25/08. The corporation must file Form CT-6 on or before June 9, 2008, to be a New York S corporation for the New York tax year 3/25/08 - 12/31/08.*

It is your responsibility to mail the election on time. The date of the U.S. postmark will be considered the date of delivery. The date recorded or marked by certain private delivery services, as designated by the U.S. Secretary of the Treasury, shall be treated as a postmark (Tax Law section 1091). If sent by registered or certified mail, the date of registration or certification will be considered the date of delivery.

Approval of election

You will be notified whether your election is approved, and if approved, the date the election will take effect. Until then, do not file Form CT-3-S or CT-32-S. If you are now required to file Form CT-3, CT-4, or CT-32, continue filing it until your election takes effect.

If you do not receive confirmation of your election before your return is due, you should write to: NYS Tax Department, Corporation Tax Registration, W A Harriman Campus, Albany NY 12227.

Note: All information in this election form is subject to review by the Audit Division in determining whether the corporation meets the legal requirements for filing as a New York S corporation.

Years for which election is effective

The election will be effective for the entire corporate tax year for which it is made and for all succeeding tax years until terminated.

Termination or revocation of election

Shareholders of a New York S corporation should refer to Form CT-6.1, *Termination of Election to be Treated As a New York S Corporation*, for information and instructions regarding the termination or revocation of a New York S election.

Specific instructions

Entering dates — Unless you are specifically directed to use a different format, enter dates in the *mm-dd-yy* format (using dashes and not slashes).

Enter the legal name of the corporation exactly as it appears in the records of the New York State Department of State.

Enter the DBA or trade name that appears on the *Certificate of Assumed Name* filed with the New York State Department of State, if different from the legal name.

Enter the number of shares of stock issued and outstanding — The number of shares of stock entered in this box should be the number of shares of stock that have been issued to shareholders and have not been reacquired by the corporation. It should equal the total shares of stock owned by all shareholders, as reported in column C.

Continuation sheet or separate consent statement — If you need a continuation sheet or use a separate consent statement, attach it to Form CT-6. The separate consent statement must contain the name, address, and employer identification number of the corporation and the shareholder information requested in columns A through D.

Column A — Enter the name and address of each shareholder.

Column B — Enter the social security number of each shareholder who is an individual. Enter the employer identification number (EIN) of each shareholder that is an estate, a qualified trust, or an exempt organization.

Column C — Enter the number of shares of stock each shareholder owns and the dates the stock was acquired. Do not list the shares of stock for those shareholders who sold or transferred all of their stock before the election was made but who still must consent to the election for it to be effective for the tax year. For more information, see the instructions for column D.

Column D — Each shareholder at the time the election is made must consent to the election by signing in column D or by signing a separate consent statement, described in *Continuation sheet or separate consent statement*.

If the election is made during the corporation's first tax year for which it is to be effective, any former shareholder who held stock at any time on or before the fifteenth day of the third month of the electing year must also consent to the election. If the former shareholder does not consent, the election will not be effective until the following tax year.

If a husband and wife have a community interest in the stock or the income from it, both must consent. Likewise, each tenant in common, joint tenant, or tenant by the entirety must also consent.

A minor's consent is made by the minor or the legal guardian. If no legal guardian has been appointed, the natural guardian makes the consent (even if a custodian holds the minor's stock under a law patterned after the Uniform Gifts to Minors Act).

An Article 13 taxpayer's consent is made by an elected officer or other authorized person.

Where to file

Mail Form CT-6 to: **NYS TAX DEPARTMENT
CORPORATION TAX REGISTRATION
W A HARRIMAN CAMPUS
ALBANY NY 12227**

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are available 24 hours a day, 7 days a week. 1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

To order forms and publications: 1 800 462-8100

Corporation Tax Information Center: 1 888 698-2908

From areas outside the U.S. and outside Canada: (518) 485-6800



Text Telephone (TTY) Hotline (for persons with hearing and speech disabilities using a TTY): If you have access to a TTY, contact us at 1 800 634-2110. If you do not own a TTY, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 972-1233.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.